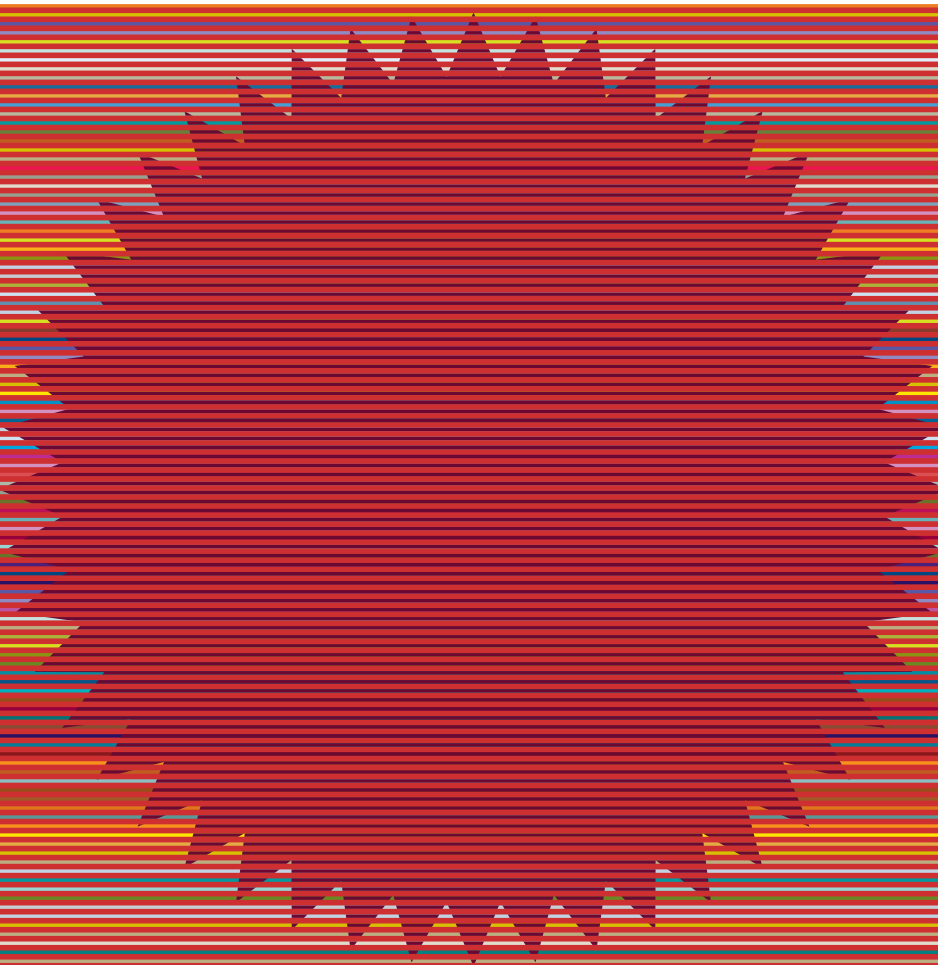


Report to the
Attorney General
of Ontario
Pursuant to Section 63.1
of the *Law Society Act*



The Law Society
of Upper Canada

Barreau du
Haut-Canada

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Executive Summary

Background

At the request of the Ontario government, and following assessment and study dating back to at least 1990, the Law Society of Upper Canada assumed responsibility for the regulation of paralegals in 2007. This represented an important change to the role of the Law Society, and an expansion of its mandate to cover the regulation of all legal services provided in Ontario.

The *Law Society Act* amendments through which this was implemented also created the requirement for reviews of paralegal regulation, after two years and again after five years.

When the then-Attorney General, The Honourable Christopher Bentley, tabled the two-year review in the legislature in March 2009, he commented, “The Law Society has made tremendous progress so far and I am confident it will continue to oversee the regulation of paralegals in the same professional and dedicated manner in which it put the regulatory system in place.”

This report is the outcome of the five-year review and demonstrates effective progress in the regulation of licensed paralegals in the intervening years.

The Review Process

In reviewing the effect regulation has had on paralegals, particular emphasis was placed on whether the Law Society has established fair and transparent licensing processes, reasonable standards of competence and conduct, and fair and transparent investigative and disciplinary processes.

In reviewing the effect of regulation on members of the public, particular focus was placed on whether Law Society regulation has established reasonable standards of competence for licensed paralegals in Ontario, accessible information about the legal services available in Ontario, and accessible and transparent complaint and disciplinary processes for the public.

The Law Society retained a consultant to conduct extensive background research on the subject of the review, including focus groups with paralegals and members of the public who have used paralegal services, key stakeholder interviews and surveys of licensed paralegals and users of paralegal services. These research findings have informed the report’s analysis.

The Law Society also solicited submissions from paralegals, lawyers, legal organizations and members of the public. Twenty-six were received, 12 from organizations and 14 from individuals. All of these submissions have been considered in the preparation of this report.

Paralegal Regulation Today

As of December 31, 2011, the Law Society had licensed 4,096 individuals to provide legal services within the paralegal scope of practice. Primary areas of practice include small claims court, traffic and other provincial offences, landlord-tenant and various other matters handled by tribunals and administrative bodies, and minor matters under the *Criminal Code*. A majority of paralegals (62 per cent) practice outside Metropolitan Toronto.

A significant proportion of licensed paralegals are carrying on practices established prior to regulation, with 2,230 having taken advantage of the grandparenting and transitional provisions. There was a high success rate on the part of these applicants, and therefore minimal mid-career disruption among long-term paralegals.

With that process complete, current applicants for licensing must graduate from one of 24 accredited college programs offered by 22 institutions around the province (including one French-language institution). Accredited programs must meet defined criteria and pass regular audits. In 2011, 604 licences were issued to graduates of these programs.

Licensing examinations are available three times annually, and licensing candidates must also be of good character, a consistent standard for both lawyers and paralegals. The *Law Society Act* provides that no one who meets the other licensing requirements can be refused a licence on the basis of good character without a hearing. In the grandparented and transitional licensing categories, 45 cases involving good character were referred to a hearing, and in 22 cases a licence was denied.

Once licensed, paralegals are subject to regulatory requirements that closely parallel those applicable to lawyers. Key elements include adherence to rules of professional conduct and requirements regarding trust accounts, insurance and continuing professional development, payment into a compensation fund, and the application of investigative and disciplinary processes. These requirements are central to a system of regulation that safeguards the public interest. Research conducted as part of the review process indicates that licensed paralegals are working to a higher standard of competence and enjoying enhanced professional standing. Further, paralegal clients are highly satisfied with the regulated services they have received.

As members of a regulated profession, paralegals also have the benefit of a wide range of resources provided by the Law Society. These include continuing professional development programs, a practice management helpline and mentoring services. The Law Society also implemented a practice audit program for paralegals, an integral part of the quality assurance activities in the public interest. The audits provide practical advice to help paralegals achieve effective and efficient practices.

Annual Law Society fees charged to paralegals compare favourably to those applicable to various other regulated professions, and fee revenues were sufficient to avoid incurring an anticipated deficit in the start-up phase of regulation. In addition to the requirement to pay an annual fee, licensed paralegals are required to file a Paralegal Annual Report. The reports provide demographic data, areas of legal services provided, maintenance of trust accounts and other financial information, and self-study activities.

Paralegals were integrated into the Law Society's governance structure through an election process for five paralegal members of the Paralegal Standing Committee, established under the *Law Society Act*. The Committee is composed of the elected paralegals, and elected and lay benchers. The first election of paralegal members of the Committee was held in March 2010. In the relatively short period of its existence, the Committee has completed an extensive agenda, developing all the necessary details of the regulatory model for recommendation to the Law Society's board, Convocation. The committee has worked very collegially together without tension between the paralegal and non-paralegal members.

Overall Results of the Review and Conclusions

The review has shown that implementation of the Law Society's regulation of paralegals has been successful. The Paralegal Standing Committee agrees, but also notes that the review identified opportunities that merit further consideration.

In summary, the report has demonstrated the following:

- Consumer protection has been balanced with maintaining access to justice and the public interest has thereby been protected. Paralegals operate within a regulatory framework that closely parallels that for lawyers and are establishing a prestigious and well-regarded profession. A large majority of them (71 per cent) believe regulation has been beneficial. The Law Society was the right choice of regulator, having put in place a framework at a reasonable cost and without undue burden on licensed paralegals. Extensive services are in place and issues have been addressed as necessary to ensure paralegals are treated as respected legal services providers. It is implausible that a new regulator could have achieved comparable progress.
- The large group of paralegals who were providing legal services before regulation have been integrated into the regulated profession through a fair and transparent grandparenting process, with the one caveat that the good-character hearing process was perceived as slow.
- Initial cohorts have graduated from the accredited paralegal college programs. Submissions to the review included calls for more rigorous program standards and for a pre-requisite of two years of college education.
- In spite of extensive communications work by the Law Society, public awareness has not kept pace with changes in the legal services market, particularly with respect to awareness of the distinction between services provided by lawyers and services provided by paralegals.
- The categories of those who provide legal services but are exempt from licensing continue to provide challenges. The Law Society believes the number of exemptions should be further reduced over time. Tracking mechanisms regarding appearances before tribunals by exempt persons are also needed.

- Some anomalies remain in older provincial statutes that were not among the many amended when regulation was implemented, and the Law Society continues to work with government in this regard.
- The governance structure in the *Law Society Act* has worked well. Paralegal and non-paralegal members of the Paralegal Standing Committee work together cordially and no Committee report has ever been rejected by Convocation. The initial allocation of two paralegal benchers, however, will become increasingly disproportionate as the number of licensed paralegals increases.
- Most paralegals (68 per cent) are satisfied with overall progress to date with respect to Law Society regulation. Key benefits to them include enhanced credibility and prestige, and access to a wide range of services.
- Among the concerns the review disclosed, some relate to the activities of peers within the paralegal profession, for example, in the use of certain business names and marketing practices. Some paralegals see the regulatory enforcement as too lenient.
- While a significant proportion of paralegals (62 per cent) said they were satisfied with the scope of practice, some believe it should be expanded. The Law Society is actively considering whether changes to the scope of practice are appropriate, based in part on the recent *Legal Needs Analysis*, which is currently under committee review. Consultations on this issue are envisioned.

Foreword by the Paralegal Standing Committee

The Paralegal Standing Committee has reviewed and contributed to this Five Year Report on Paralegal Regulation in Ontario, and has reviewed the attached consultant's report prepared by Strategic Communications Inc.

The Committee regards the implementation of paralegal regulation in Ontario as a success, providing consumer protection while maintaining access to justice, although there are remaining challenges and opportunities to be addressed, as noted in the report.

As shown by the focus groups conducted by the consultant, paralegals feel that the Law Society has provided fair and transparent licensing and regulatory processes, and that regulation has enhanced paralegals' professional standing.

The Paralegal Standing Committee is satisfied that this report fairly presents the development of this initiative over the last five years. Given that the *Law Society Act* section 63.1 requires that "a portion of the report is authored by the Paralegal Standing Committee," the Committee is pleased to submit this foreword in compliance with this legislative requirement.

The Committee looks forward to continuing to work with all stakeholders to further this important work.

Respectfully submitted,



Cathy Corsetti, Chair
On behalf of the Paralegal Standing Committee

Introduction

Requirement for this review

At the request of the Ontario government, the Law Society of Upper Canada assumed responsibility for the regulation of paralegals in 2007, implemented through amendments to the *Law Society Act*. This represented an important change to the role of the Law Society, which, while previously limited to the regulation of lawyers, expanded to make the Law Society the regulator of all legal services in Ontario.

Law Society Act amendments also created the requirement for two reviews of the implementation of paralegal regulation, one to be conducted after two years and one after five years.

The two-year review was completed in 2009, and presented to the then–Attorney General, The Honourable Christopher Bentley, for tabling in the legislature in March 2009. In his remarks, the Attorney General commented “The Law Society has made tremendous progress so far and I am confident it will continue to oversee the regulation of paralegals in the same professional and dedicated manner in which it put the regulatory system in place.” The two-year review is available on the Law Society website.

The provision of the *Law Society Act* governing the five-year review is as follows:

Report after five years

DEFINITION

63.1 (1) In this section,

“review period” means the period beginning on the day on which all of the amendments to this Act made by Schedule C to the *Access to Justice Act, 2006* have come into force and ending on the fifth anniversary of that day.

Review and report by Society

(2) The Society shall,

- (a) review the manner in which persons who provide legal services in Ontario have been regulated under this Act during the review period and the effect that such regulation has had on those persons and on members of the public;
- (b) prepare a report of the review, ensuring that a portion of the report is authored by the Paralegal Standing Committee; and
- (c) give the report to the Attorney General for Ontario within three months after the end of the review period.

The “review period” in subsection 63.1 (1) ran from May 1, 2007 to April 30, 2012.

Focal points for this review

In reviewing the effect regulation has had on paralegals, particular emphasis was placed on whether the Law Society has established:

- fair and transparent licensing processes for paralegal applicants;
- reasonable standards of competence and conduct for licensed paralegals; and
- fair and transparent investigative and disciplinary processes for situations where it is alleged that licensed paralegals have failed to observe Law Society standards.

In reviewing the effect of regulation on members of the public, particular focus was placed on whether Law Society regulation has established:

- reasonable standards of competence for licensed paralegals in Ontario such that the public has access to competent paralegal services;
- accessible information about the legal services available in Ontario;
- accessible and transparent complaint processes for the use of members of the public who have concerns about the conduct or competence of licensed paralegals; and
- accessible and transparent disciplinary processes to address breaches of Law Society standards.

Methodology for this review

Following a request for proposals, the Law Society retained a consultant to conduct extensive background research on these issues. The methodology included focus groups with paralegals and members of the public who have used paralegal services, key stakeholder interviews and surveys of licensed paralegals and users of paralegal services. These research findings have informed the report's analysis.

The Law Society also solicited submissions from paralegals, lawyers, legal organizations and members of the public. Twenty-six were received, 12 from organizations and 14 from individuals. All of these submissions have been considered in the preparation of this report.

The list of those who made submissions and the research findings are appended to this report.

History of Paralegal Regulation

The Attorney General's Request

On January 22, 2004, then–Attorney General, Michael Bryant, attended Convocation and requested that the Law Society assume responsibility for regulating paralegals in Ontario. By that time, work on the issue dated back at least 15 years, and included major reports by Professor Ronald Ianni (1990) and Justice Peter de C. Cory (2000).

In August 1999 the Ontario Court of Appeal had commented as follows in the case of *R. v. Romanowicz*:

A person who decides to sell t-shirts on the sidewalk needs a license and is subject to government regulation. That same person can, however, without any form of government regulation, represent a person in a complicated criminal case where that person may be sentenced to up to 18 months imprisonment. Unregulated representation by agents who are not required to have any particular training or ability in complex and difficult criminal proceedings where a person's liberty and livelihood are at stake invites miscarriages of justice. Nor are *de facto* attempts to regulate the appearance of agents on a case-by-case basis likely to prevent miscarriages of justice.

From 2001 to 2002 the Law Society had worked with the Professional Paralegal Association of Ontario to resolve some of the key issues, which led to the development of a document called *A Consultation Document on a Proposed Regulatory Framework*, which became an important building block in the project as it developed.

In response to the 2004 request from the Attorney General, Convocation authorized the Treasurer to establish a task force to develop a detailed proposal in collaboration with the Ministry of the Attorney General. The then Treasurer, Frank Marrocco, established the Task Force on Paralegal Regulation on February 10, 2004, chaired by Benchers William Simpson. On April 22, 2004, the Task Force submitted a revised consultation document to Convocation, which served as the basis for consultations with stakeholders to inform a more detailed proposal.

The Task Force consulted with stakeholders from April to August 2004, holding meetings in many centres across the province, from Thunder Bay to Windsor. It heard from more than 50 organizations and groups and submitted its Report to Convocation on September 23, 2004.

The 2004 Report to Convocation

In the view of the Task Force, previous attempts to regulate paralegals had failed principally because of the inability to achieve a consensus on two difficult issues, namely, the regulatory model and the scope of paralegal activities.

The Task Force believed that, with more than 200 years of experience as a regulatory body governing lawyers in the public interest, the Law Society could more efficiently and economically regulate paralegals than could a new regulatory body. The Task Force further found that there was now considerable support for this approach in the legal profession. This resolved the first of the two most difficult issues.

The Task Force also determined regulation of paralegals could best be achieved on the basis of the current law respecting paralegal activities, thus avoiding the need for numerous substantive-law changes. The Task Force received many submissions arguing that the permitted scope of practice for paralegals should either be broadened or narrowed. The Task force was concerned that an effort to resolve these disparate views would risk indefinitely postponing the regulation of paralegals. The appropriate starting point for paralegal regulation was instead deemed to be the regulation of persons providing services in currently permitted areas of law, as defined in legislation and case law.

The Task Force agreed that the approach to paralegal regulation should be based on the following principles:

- it should reflect the current definition of the “unauthorized practice of law” as set out in case law;
- it must be in the public interest, providing consumer protection and enhancing access to justice;
- it must ensure paralegal competence;
- it should be as uncomplicated as possible while achieving the desired result;
- it should mirror the regulation of lawyers wherever possible, to avoid confusion and duplication.

As the objective was to enable the Law Society's regulation of the delivery of legal services comprehensively, a broad definition of the practice of law was required. Exemptions could then be created for those whom it was not necessary or appropriate for the Law Society to regulate. In this way, the regulation of paralegals would be focused on individuals retained by the public to provide services for a fee.

The over-arching scheme of regulation would appear in the *Law Society Act*, with the details in the more flexible format of regulations and by-laws.

Key features of the model would include the following:

- Persons wishing to acquire a licence would take an approved college course, be of good character, and pass a Law Society licensing examination.
- Licensed paralegals would — in the same manner as lawyers — be required to follow a code of conduct, carry insurance, and pay into a compensation fund.
- Licensed paralegals should be subject to discipline, with the most serious sanction being loss of their licence after a hearing.

Convocation approved the Task Force Report and submitted it to the Attorney General as the recommended basis for the necessary legislation. This recommendation, incorporating the principles and features outlined above, was accepted.

The Access to Justice Act

Attorney General Bryant introduced the *Access to Justice Act* on October 27, 2005. *Schedule C* contained amendments to the *Law Society Act* that closely followed the recommendations of the Task Force Report, including the recommendation that the details should be addressed by way of regulations and by-laws.

The Act received Royal Assent on October 19, 2006, with an effective date for the *Law Society Act* amendments of May 1, 2007. At that point, the challenge to the Law Society of preparing the required by-laws and supporting operational programs began.

Analysis of Paralegal Regulation

Initial Implementation

The amended *Law Society Act* meant that the Law Society ceased to regulate only lawyers and became the regulator of the delivery of legal services comprehensively. This was achieved through a broad definition of the “provision of legal services”. Within this broad definition, the scope of practice for paralegals was set out through by-law.

Subsection 1(8) of the amended Act excludes four areas from Law Society jurisdiction:

- other regulated professions, within the normal course of their work;
- in-house employees preparing documents for their employer;
- persons acting on their own behalf; and
- trade union representatives dealing with members’ trade union matters.

In addition to these four areas, subsection 1(8) gives the Law Society authority to exempt any other persons or classes of persons through by-laws. This gives the Law Society wide discretion to determine the areas of legal services that the Law Society will regulate.

While most of the *Law Society Act* amendments were effective on May 1, 2007, two provisions were effective immediately upon Royal Assent — the creation of the Paralegal Standing Committee (PSC) and the addition of two paralegal benchers to Convocation. The members of the PSC were appointed in November and met for the first time on December 5, 2006. Section 16 of the *Law Society Act* required that five paralegal members of the committee be appointed by the Attorney General to sit until the first election could be held. That election took place in March 2010.

The committee immediately began the challenging work of developing the details of the regulatory model for Convocation’s approval. From November 2006 to May 2007, when all of the other amendments to the Act came into effect, the PSC developed extensive recommendations addressing:

- the grandparenting process;
- development of the rules of conduct;
- exemptions to licensing;
- insurance requirements;
- fees; and
- the compensation fund.

Developing an appropriate grandparenting process was a significant challenge, but was necessary for the benefit of the large number of paralegals already in practice. A key rationale for the regulation of paralegals was that there was a mix both of competent, conscientious paralegals and of some less competent, and even incompetent and unethical ones. This was not only harmful to vulnerable clients and contrary to the public interest, but also damaging to the reputation of competent paralegals. At the same time, one of the concerns of the Ontario government was that conscientious practitioners should not face unreasonable barriers to continuing their careers under the new regulatory framework.

Regulation was designed to create a standard of competence and to address the problem of incompetent and unethical paralegals. The grandparenting provisions gave applicants a six-month window to apply for a licence, from May 1 to October 31, 2007. There were no educational requirements, provided applicants had three years of full-time experience. These applicants were subject to all the other licensing requirements, including being of good character, carrying insurance and passing the licensing examination.

Where an application raised an issue of good character, the file was referred for investigation and a possible hearing.

More than 2,200 applicants applied under these grandparenting provisions. Of these, 1,930 took the first-ever licensing examination on January 17, 2008. In total, 2,230 paralegal licences were eventually issued under the grandparenting process.

With this process concluded, licensing now proceeds on an annual timetable, in much the same manner as the licensing process for lawyers.

By-law 4 under the *Law Society Act* was passed on March 29, 2007 and became effective on May 1, 2007. It set out details of the regulatory model, including the permitted scope of paralegal practice. As recommended by the Task Force, the permitted scope embodied the existing permitted areas.

As noted above, the amended *Law Society Act*, in subsection 1(8), provided exemptions to the licensing requirements. By-law 4 established further exemptions, in keeping with the intent to focus initially on the private provision of legal services for a fee. For example, in-house paralegals who only represent their employer, such as municipal prosecutors, are not required to have a licence.

Other exemptions were subsequently added by Convocation, on the recommendation of the PSC, where there was a public policy rationale. These included, for example, the staff of legal aid clinics and of not-for-profit organizations providing free legal services, as long as they carry professional liability insurance.

The regulatory exemptions were regarded as part of a phase-in of paralegal regulation — the By-law specified that they were to be reviewed after two years. The exemptions review began in spring 2009 and concluded in 2011 with two of the exemptions being removed from the By-law and others amended. While some exemptions are likely to be permanent, such as the exemption for immediate family members, the appropriateness of others continues to be assessed.

One of the guiding principles was that the regulation of paralegals be as similar as possible to that of lawyers. The regulatory provisions governing lawyers are for the most part found in the Law Society's by-laws. A large proportion of the by-laws now apply equally to lawyers and paralegals, and when amendments are proposed, they are generally applicable to both. Provisions are essentially the same for both lawyers and paralegals with respect to:

- practice structures;
- professional liability insurance requirements¹;
- standards of competence;
- financial regulation²; and
- mandatory continuing professional development.

In March 2007, Convocation approved the *Paralegal Rules of Conduct* ('Rules') developed by the PSC. The Rules have been amended on a number of occasions since then to clarify duties and obligations, and to ensure consistency internally and with the lawyers' *Rules of Professional Conduct*.

1 With the exception that insurance for paralegals may to be purchased on the open market;

2 The only exception to the existing rules for lawyers was that grandparent applicants were given a transitional period within which to bring their financial management into conformity with the trust account rules.

Provisions are essentially the same for both lawyers and paralegals with respect to:

- accepting instructions;
- carrying out instructions;
- professional relationships;
- advertising, competition and restraint of trade;
- professional conduct;
- conflicts of interest; and
- confidentiality of client information.

Effect on Paralegals

Grandparenting Process

While many aspects of paralegal regulation affect all licensed paralegals, some issues are specific to those who used the grandparenting process, as distinct from graduates of the accredited college programs.

When this process became available in May 2007, the Law Society had no means of knowing the potential number of applicants, but estimates had ranged from 750 to 1,200. When the window closed on October 31st, over 2,200 had applied. This represented a significant operational challenge.

The grandparenting provisions were meant to protect mid-career paralegals from undue disruption in their work lives, an important objective for both the Law Society and the government. They were designed to strike a balance between consumer protection and access to justice. The Law Society's Professional Development & Competence Department developed proposals for the consideration of the PSC and subsequently Convocation, that required applicants to:

- have three years of full-time experience in the permitted areas of practice;
- be of good character;
- carry \$1 million of professional liability insurance; and
- pass the licensing examination.

The vast majority of applicants were able to fulfil these requirements, regarding which there were very few complaints. Most paralegals who had practised for five or more years had no difficulty with the licensing examination. They were therefore able to continue providing legal services, assuring their clients that they were now licensed and insured, backed by a compensation fund and subject to regulation by the Law Society in the event of any problem.

As noted, many paralegals had satisfactory insurance coverage from private insurers and there was no compelling reason to disrupt these relationships. Paralegals remain able to purchase the specified level of coverage from their choice of provider. This contrasts with the situation for lawyers, who are required to purchase insurance from the Law Society's wholly-owned insurance company, LAWPRO.

Applicants were eligible for grandparenting if they had worked as paralegals in the permitted scope of practice, either independently or as an employee, for three of the last five years. For applicants requiring accommodation under one of the grounds in the Ontario *Human Rights Code*, the requirement was three of the last seven years. Candidates who did not meet the years of experience requirement, but who had relevant education or training, could apply as transitional candidates. The Law Society ultimately processed 2,203 applications, 1,725 as grandparenting candidates and 478 as transitional candidates.

All such candidates were required to take and pass the Paralegal Licensing Examination. They were able to write the examination in English or French in five locations across the province: Toronto, London, Ottawa, Sudbury and Thunder Bay. Secure venues and competent invigilators were arranged and sittings took place on January 17, 2008, February 27 and April 2, 2008.

Applicants who successfully completed the licensing examination were notified by the Law Society and invited to complete the licensing process by submitting their annual fee and a registration package, subject to a good character review. Comments received from the first group of paralegals who went through the process were extremely positive with respect to service provision, learning materials and sessions and the overall experiences. The Law Society began issuing licences in May 2008 and by the end of October more than 2,000 had been issued to grandparented and transitional applicants.

Among paralegals who responded to the online survey conducted by the Law Society's outside consultant, 83 per cent were satisfied or very satisfied with the grandparenting process.

Licensing Examinations for paralegals now take place three times a year in February, August and October in Toronto. Applicants are permitted to write the examination up to three times, after which they may be required to obtain further education before re-applying.

Competency and Education

COMPETENCY PROFILE AND EXAMINATION DEVELOPMENT

The starting point for paralegal licensing was the development of a profile setting out the required competencies for an entry-level paralegal. Competencies form the basic building blocks for a defensible examination and licensure system and can be defined as the knowledge, skills, abilities, attitudes and judgments required to competently provide legal services to the public.

The Professional Development and Competence Department began with a review of the scope of practice and the creation of rules of professional conduct for paralegals. Consultations were held with tribunals and agencies, colleges and paralegals themselves. In addition, the department reviewed and analyzed legal services programs offered by private and community colleges. The competency profile was designed to reflect the Rules as well as core issues involving professional responsibility, practice management and ethics. Competencies in the various substantive areas of law within the paralegal scope of practice were to be addressed through the college accreditation process (see below).

Each competency in the final profile was rated on a scale of importance to create an examination blueprint. The blueprint specifies types and numbers of questions, and a scoring methodology. The department then organized a series of examination item writing sessions, during which subject matter experts created questions that aligned with the competencies and parameters of the examination blueprint. Questions were then validated by qualified external assessors. The end result was an examination consisting of 100 multiple-choice questions with a passing mark set using the 'Angoff' method.

Reference materials were developed to support the competencies being assessed in the examinations, and addressing ethics and practice management concepts related to the Rules and competency profile. Once the reference materials were complete, questions were tagged to the appropriate section to ensure the materials comprehensively addressed the paralegal examination bank. Examination items and reference materials were externally translated into French. In addition, a study guide and learning sessions to help paralegals prepare were developed.

Information from the focus groups and online survey of paralegals conducted as part of this review indicated a high degree of satisfaction with the licensing examination: 83 per cent of respondents were satisfied or very satisfied with the examination.

ACCREDITATION OF PARALEGAL COLLEGE PROGRAMS

Once the window for grandparenting and transitional applicants closed in October 2008, the Law Society began the process of accrediting paralegal programs of study. The objective was to ensure that all candidates seeking paralegal licensing have graduated from approved education programs that meet required standards.

A competency profile for paralegal program accreditation was developed by the Professional Development and Competence Department after extensive consultation with various colleges and the Ministry of Training, Colleges and Universities (MTCU). The profile specifies 18 required courses in a variety of substantive, procedural, skills related and practice management areas within the paralegal scope of practice. Specifically, accredited college programs must offer a minimum of 830 hours of instruction, comprised of:

- 590 instructional hours in compulsory legal courses within the permitted scope of practice;
- 120 hours of field placement/practicum work experience; and
- 120 instructional hours in additional (non-legal) courses that support a well-rounded college education.

In addition, accreditation requirements set out standards related to program infrastructure, including the number and qualifications of faculty, thoroughness of the institution's assessment practices and examinations, and the suitability of the program's field placement process.

The department prepared accreditation packages that were distributed to academic institutions in the fall of 2007. Colleges were given until May 1, 2010 to submit an application and obtain accreditation. Priority was given to assessing accreditation applications from institutions that already had paralegal programs in place. A total of 20 college programs had submitted an application and received accreditation by June 30, 2010.

The Law Society continues to liaise regularly with the MTCU on accreditation and auditing of paralegal education programs. The ministry is copied on accreditation approvals or denials, along with the reasons for such

decisions. This relationship has been extremely beneficial in ensuring the effectiveness of the new system.

There are currently 24 accredited programs in Ontario, offered by 22 community colleges and private career academies (some in more than one location). This includes a French-language program at *La Cité collégiale* in Ottawa. Only candidates who have graduated from accredited college programs are permitted to apply for a paralegal licence. In 2011, 604 college graduates became licensed; this number is expected to rise in 2012. In addition, there have so far been 85 licences granted to the 497 applicants via the Integration Process described below.

Among paralegals who responded to the online survey conducted by the Law Society's outside consultant, 70 per cent reported that the college program was adequate preparation for the licensing examination.

AUDITING OF ACCREDITED PARALEGAL COLLEGE PROGRAMS

As a measure of quality assurance, accreditation policies allow the Law Society to attend at accredited programs to review systems, conduct interviews or otherwise assess information provided in the institution's application. To ensure that each accredited program of study maintains appropriate standards of competence training and assessment, an audit is conducted within the first three years after accreditation, and at least every five years thereafter. The Law Society began these audits in November 2009. Each audit is comprised of the following:

- review of selected materials (e.g. course descriptions, completed assessments, faculty lists and field placement reports) to ensure they meet or exceed minimum standards; and
- two-day site visits to each campus, during which the auditors observe classes and interview administrators, faculty, students, and the field placement coordinator.

After the site visits, an audit report is drafted, providing recommendations and commentary, and is sent to the institution for review and clarification prior to issuance of a final audit report.

As of April 30, 2012, the paralegal accreditation team has conducted 19 audits at 30 campuses. The audit team has experienced an excellent level of compliance with respect to recommendations and commentary made within the process, and feedback has been very positive overall.

INTEGRATION LICENSING PROCESS

On October 1, 2010, the Law Society approved an Integration Licensing Process for members of certain previously exempted paralegal groups. The Professional Development and Competence Department developed an online training and assessment program that covers substantive areas of law within the permitted scope of practice, in addition to ethics and practice management issues.

This self-paced Paralegal Conduct and Advocacy Course is organized into 15 modules and takes approximately 50 hours to complete. The curriculum is delivered in various formats, including readings, exercises, videotaped mini-lectures, vignettes, demonstrations, and interviews with licensed paralegals. Candidates are required to pass a 20-minute, multiple-choice assessment at the end of each module.

Eligible candidates were required to apply by September 30, 2011, and must satisfy all licensing requirements, including successful completion of the licensing examination and a good character assessment. The Law Society received a total of 497 applications for this Process by the end of September 2011. Comments from candidates who have completed the course to date have been very positive.

Practice Support and Professional Development

PRACTICE AUDITS

In November 2008, the Law Society implemented a practice audit program for paralegals, an integral part of the quality assurance activities in the public interest. Building on the model used for lawyer practice audits, paralegal practice audits have focused on evaluating practice-management systems in the areas of: client service and communication, file management, financial management, technology, professional management, time management and personal management. They provide practical advice to help paralegals achieve effective and efficient practices.

Initially, staff conducted 75 paralegal practice audits per year. In 2009, the total was increased to 125 per year, including at least 75 original visits and up to 50 re-visits, to ensure that an appropriate number of new paralegal practices were being audited annually.

The program has been well received by paralegals, with surveys showing that 97 per cent of those who underwent a practice audit found it to be constructive and value added.

PRACTICE RESOURCES

The Law Society conducted an extensive review of all existing Law Society practice management offerings, and where applicable, products, resources and services were updated to include reference to paralegal practices. These resources include the Knowledge Tree, a comprehensive, online listing of the most common practice-management questions that legal professionals have asked and the answers to those questions — and the following practice guides:

- Guide to Opening Your Paralegal Practice
- Paralegal Bookkeeping Guide
- Paralegal Guide to Retention and Destruction of Closed Client Files
- Paralegal Guide to Closing Your Practice
- Client Identification and Verification Resources for Paralegals.

CONTINUING PROFESSIONAL DEVELOPMENT PROGRAMS

Effective January 2011, paralegals have been subject to the continuing professional development (CPD) requirement. All paralegals who provide legal services are required to complete 12 hours of eligible educational activities in every calendar year, including a minimum of three hours of accredited professionalism-related content.

The CPD team works closely with volunteer paralegals to develop programs that meet the needs of paralegals in different practice areas and at different experience levels. Programs have addressed issues in landlord and tenant, small claims court, and provincial offences practice areas, as well as a cross-practice program for new paralegals and a program dealing with trust accounting and financials.

In 2011, the Law Society presented 18 CPD programs for paralegals, including seven free programs addressing practice management topics meeting the professionalism hours requirement. Free programs included Professionalism for Workers' Compensation Practitioners, Opening Your Paralegal Practice, Effective Practice Management for Paralegals and Effective Writing for Paralegals. Among paralegals who responded to the online survey conducted by the Law Society's outside consultant 65 per cent reported they were satisfied or very satisfied with the CPD requirements.

PRACTICE MANAGEMENT HELPLINE AND MENTORING

The Practice Management Helpline provides paralegals with assistance regarding the application of the *Rules*, and Law Society-related legislation and by-laws. The service is confidential and the helpline strives to return all calls within 24 hours.

Representatives screen calls, assist callers to identifying the issues, make referrals to existing resources and escalate the call to counsel, if necessary. Counsel will discuss the ethical issues, applicable legislation and potential options and the advantages and disadvantages of each. In 2011, the helpline responded to 861 calls from paralegals, representing growth over 606 in 2010, 797 in 2009 and 410 in 2008; in the first four months of 2012, there were 368 calls. Most calls from paralegals relate to the *Provincial Offences Act*, Small Claims Court and Statutory Accident Benefits matters.

Through the Practice Mentoring Initiative, staff working on the Practice Management Helpline can link callers who have specific substantive legal issues to mentors. The caller must have a unique legal issue and must demonstrate that he or she has already completed some legal research.

In 2011, the Practice Mentoring Initiative was expanded to include paralegals. Seven paralegal mentors working in the areas of property tax assessment, small claims court, landlord and tenant matters and *Highway Traffic Act* offences have been added to the roster.

LEGAL NEEDS REPORT

The Law Society regularly reviews the appropriate standards of competence for its licensed legal service providers. These issues formed part of the recent *Legal Needs Analysis* report prepared by the Professional Development and Competence Department, to determine the knowledge, skills and abilities required to provide specific services competently. Subsection 4.2 (5) of the *Law Society Act* refers to the Law Society's obligation to set standards of learning and specifies that restrictions on service provision should be proportionate to the significance of the regulatory objectives. The primary goal is to ensure that competent, ethical and accessible legal services are available to the people of Ontario.

Among paralegals who responded to the online survey conducted by the Law Society's outside consultant, 62 per cent reported satisfaction with the current scope of practice.

CLIENT SERVICE CENTRE

With the exception of professional liability insurance, discussed below, the Law Society's Client Service Centre adapted its existing structures and processes for use by paralegals. Depending on their employment situation, paralegals are assigned practice or employment status codes and corresponding fee categories that generally parallel those used for lawyers. Status codes are used by the Law Society for various purposes, such as determining insurance and trust account reporting requirements.

PARALEGAL ANNUAL REPORT

In addition to the requirement to pay an annual fee, licensed paralegals are required to file a Paralegal Annual Report. As paralegals were first licensed in 2008, the first reports were filed in 2009.

These reports provide important information to the Law Society on licensees' activities, including demographic data, areas of legal services provided, maintenance of trust accounts and other financial information, and self-study activities. The report, covering the previous year's activities, is due by March 31 each year. Failure to file more than 120 days after the due date may result in suspension of the licence to provide legal services.

Paralegal Insurance

The processes related to professional liability insurance for paralegals differ from those for lawyers, and therefore have required more changes in the operation of the Client Service Centre than other aspects of paralegal regulation. While lawyers in Ontario must purchase their professional liability insurance from a single entity (LAWPRO), paralegals have a choice of service providers.

Subsection 12 (1) of Part II of By-law 6 outlines the minimum requirements for professional liability insurance, as follows:

- policy limits of \$1 million per claim and \$2 million in the aggregate;
- a reasonable deductible in relation to the financial resources of the licensee;
- coverage for liability for errors, omissions and negligent acts arising out of the provision of legal services by a paralegal;
- individual paralegals must be named as an "Insured" on the policy, or by way of endorsement;

- an extended reporting period of 90 days from the date of cancellation of the policy;
- addition of the Law Society as an “Additional Insured”;
- a provision that the policy may not be cancelled or amended without at least 60 days written notice to the Law Society.

Paralegals must provide written proof of their compliance with this requirement to carry mandatory insurance before they begin providing legal services, and annually thereafter.

In addition to the above requirements, the Law Society must have reviewed and approved the policy. The Law Society worked closely with a number of insurance providers to develop policy wording that meets the by-law requirements and, to date, has approved eleven errors and omissions policies offered by:

- ACE/INA
- A.M. Fredericks Underwriting Management Ltd./Echelon
- Berkley Canada
- Encon Group Inc.
- GCAN
- Lloyd’s of London – Complete Equity Markets
- Lloyd’s of London – Creechurch/Pembroke
- Lloyd’s of London – Elliot Special Risk/Markel
- Lloyd’s of London – Elliot Special Risk/XN
- Travelers Guarantee Company of Canada
- Trisura

While paralegals have an obligation to provide the Law Society with up-to-date insurance information, as the Law Society has relationships with the insurance providers and their respective brokers, in most cases the insurance information is sent directly from the broker to the Law Society.

Follow-up processes further ensure that paralegals adhere to the insurance requirements, including:

- Reminder Notices - 60 days prior to a policy expiring, a reminder notice is automatically printed and mailed to the paralegal requiring proof of valid insurance on or before their policy expiration date.
- Cancellation Notices - Policies that have been cancelled are captured in the Law Society’s system and an automated notice is generated informing the paralegal that they must either provide a new policy on or before the cancellation date, or change their status to one that does not require insurance.
- Paralegals who fail to maintain required insurance are subject to suspension of their licence.

The Client Service Centre also captures information about paralegals who are providing legal services, but are exempt from the insurance requirement, such as those who work for Legal Aid Ontario clinics or who work under the direct supervision of a lawyer.

Paralegal Business Structures

The Client Service Centre is responsible for the administration of forms and processes related to permissible paralegal business structures. These include professional corporations, multi-discipline partnerships (MDPs), and affiliations. Professional Corporations have an annual renewal process. There are filing requirements for MDPs and affiliations, and suspension may result from non-filing.

An information sheet explaining permissible business structures for paralegals was distributed during the grandparenting process, since it was clear that many existing business structures would no longer be permissible after paralegal licensing took effect.

Paralegals affected by these changes were given a grace period to bring their business structures into compliance, since many large businesses had to restructure and spin off their paralegal activities.

Law Society counsel also worked with staff to conduct a review of paralegal business names and assisted in the development of paralegal firm name guidelines. Since paralegals tend to use trade names, the approval process for professional corporation names posed some early challenges.

The significant number of professional corporation applications at the outset probably indicated that paralegals were most comfortable with these traditional structures. This meant that revisions were required to some of the Law Society’s internal processes, since shares of professional corporations can be owned entirely by lawyers, entirely by paralegals, or a combination of both (with different requirements for the Articles of Incorporation).

ADMINISTRATIVE SUSPENSIONS

Paralegals who fail to comply with the Law Society’s administrative requirements — including payment of annual fees, submission of annual filings, maintenance of professional liability insurance, and completion of CPD requirements — may be subject to licence suspension. In this administrative process, the Client Service Centre

monitors compliance, takes due diligence steps relating to non-compliance (typically consisting of reminder letters, emails and phone calls), prepares the summary order of suspension for signature by the designated Benchers, and mails out the notice of summary order of suspension of licence. Client Service Centre staff are also responsible for changing the status codes of paralegals whose licences are suspended.

LAW SOCIETY REFERRAL SERVICE (LSRS)

The Law Society's Lawyer Referral Service, created in 1970, is a popular access to justice service that puts prospective clients in touch with lawyers who have indicated they are willing to accept referrals in a given area of law.

Paralegals have now been added to this service, and the scope of the service has been expanded as well. The re-branded service launched in May 2012 as the Law Society Referral Service.

During the preparation of this expansion, Client Service Centre counsel assessed how to address the limited scope of paralegal practice and how to ensure fairness in referrals. It is important to ensure that the new service does not refer callers to paralegals on issues outside their scope.

Conduct and Discipline

SCOPE OF PRACTICE ISSUES

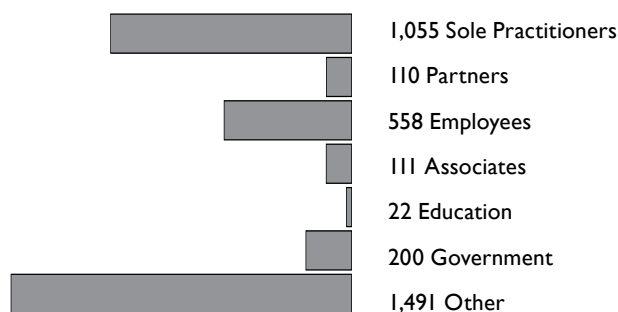
While the process for initial review of paralegal complaints mirrors the process for lawyers, it was necessary to adapt many existing precedents for paralegal complaints.

Early on, certain trends associated with paralegal complaints became apparent. For example, there was a marked increase in complaints about unauthorized practice. Since paralegal regulation brought with it a new category of "unauthorized provision of legal services", paralegals who had made the effort to become licensed would often bring concerns about unlicensed providers of legal services to the Law Society's attention.

Client Service Centre employees received specialized training on the scope of practice for paralegals and the exemptions in By-law 4, and were made aware of potential business structure concerns that were unique to paralegals.

The Client Service Centre is also responsible for reinstatement of the suspended licences of paralegals, licence surrender applications, and licensing following surrender.

AREA OF EMPLOYMENT AS AT DECEMBER 31, 2011*



*does not include paralegals who were not working or were outside Ontario

GEOGRAPHICAL DISTRIBUTION AS AT DECEMBER 31, 2011

Metropolitan Toronto	1,554	(38 per cent)
Ontario, outside Metropolitan Toronto	2,522	(62 per cent)
Elsewhere in Canada	12	(0.2 per cent)
Outside Canada	8	(0.1 per cent)
Total	4,096	

PARALEGAL RULES OF CONDUCT

An external consultant was retained to assist with the development of the Rules, which were approved by Convocation on March 29, 2007 and have been updated as required — they were drafted to be consistent with the *Rules of Professional Conduct* for lawyers and to be clear and accessible for paralegals and the public. They address duties to clients, to tribunals, to other licensees and to the Law Society, and focus on ethical and professional obligations in areas such as competence, confidentiality, integrity, conflicts of interest, and civility.

The standards for paralegals are the same as the standards for lawyers to the extent that this is possible, given the different scopes of practice. For newly regulated paralegals, it was critical that the Law Society's expectations were very clear. To achieve this goal, the Rules are formatted differently from the *Rules of Professional Conduct*, and do not contain any interpretive commentary.

The *Paralegal Professional Conduct Guidelines* were approved by the PSC as a companion to the Rules. The guidelines are intended to be used as an educational tool for paralegals in interpreting and applying their professional obligations and responsibilities under the *Law Society Act*, its by-laws, and under the Rules.

Among paralegals who responded to the online survey conducted by the Law Society's outside consultant, 84 per cent reported they were satisfied or very satisfied with the Rules.

GOOD CHARACTER HEARINGS

Subsection 27(2) of the *Law Society Act* requires applicants for licensing as lawyers or paralegals to be of good character, with a consistent standard for both lawyers and paralegals. Subsection 27(4) provides that no one who meets the other licensing requirements can be refused a licence on the basis of good character without a hearing. The Law Society assesses good character by requiring all applicants to disclose issues that may bring their character into question — an example of such an issue would be a criminal record. The raising of such an issue may not preclude a licence being granted since the issue to be determined is whether the applicant is of good character at the time of the hearing.

Some 400 grandparent and transitional cases raised good character issues. After investigation, 76 of those files were referred to the Proceedings Authorization Committee for decision on further action. Of these, 14 were closed and 17 were abandoned by the applicants. Forty-five were referred to a hearing, and in 22 cases a licence was denied. While this process may have seemed lengthy, the Law Society is bound to provide a hearing before denying a licence, and hearings are subject to the requirements of administrative law. Many applicants whose licences were denied by the hearing panel commenced appeals, and this significantly extended the length of the process.

By the end of 2011, the paralegal good character investigations and hearings related to the grandparenting and transitional applicants were almost entirely completed, with two decisions on reserve and one hearing remaining in progress.

INTAKE, COMPLAINTS AND INVESTIGATIONS

The Law Society responds to complaints involving conduct, competence and capacity of lawyers and paralegals. Complaints range from service issues to incivility to allegations involving the misuse of trust funds. The Law Society is able to resolve many complaints by working with complainants and licensees. When appropriate, the Law Society will conduct investigations which can lead to formal discipline prosecutions.

The Law Society began to receive complaints against licensed paralegals in 2008. The rate of new complaints increased by 32 per cent in 2010 but slowed dramatically in 2011. The volume is considered by the Law Society to be a predictable result of the regulation of a new profession.

Complaints about licensed paralegals have been integrated into the Law Society's existing processes, and are generally similar to the types of complaints about lawyers — the most common relate to services, such as delay, lack of communication and failure to serve.

Some of the complaints have resulted in professional discipline of licensed paralegals, with the first such instance in 2009. As at December 31, 2011, 37 notices of application had been issued, 15 of which concerned the paralegal's failure to respond to communications from the Law Society.

UNAUTHORIZED PROVISION OF LEGAL SERVICES

The *Law Society Act* prohibits individuals who are not licensed from practising law or providing legal services. With the start of paralegal regulation, the volume of complaints received about unauthorized provision of legal services increased significantly to a high of 445 complaints in 2009. The Law Society continues to receive an increased number of complaints about unauthorized practice, however the number of complaints received each year since 2009 has declined, with 255 complaints received in 2011.

TRUSTEE SERVICES

As is the case with lawyers, the Law Society becomes involved in obtaining trusteeships when a paralegal practice is abandoned or where the paralegal is no longer able to operate the practice, and there is no alternative provision for ongoing management of the practice. There was a significant trusteeship issue at the commencement of paralegal licensing when a large practice became insolvent, requiring Law Society intervention to protect the interests of several thousand clients. A number of paralegal practices have been abandoned since licensing. The frequency with which this has occurred is probably due to adjustments to a new regulatory regime. Altogether there have been a total of 20 trusteeships of paralegal practices.

TRIBUNAL LIAISON

The Law Society's Professional Regulation Department maintains ongoing contact with the administrative justice community, where many paralegals routinely appear, to continue development of best practices for handling complaints originating from tribunals. This permits the review and improvements of current requirements, and provides support to the administrative justice agencies. Tribunal contacts and submissions to this review emphasize the beneficial effect that paralegal regulation has had in the proceedings before Ontario tribunals, including a general

improvement in professional standards. In addition, there is better protection for vulnerable clients in matters such as automobile accident benefits and workers compensation. Prior to regulation, these were two areas where inappropriate and unscrupulous individuals frequently took advantage of vulnerable clients. Such individuals have sometimes tried to take advantage of the continued existence of regulatory exemptions, and the Law Society continues to work with tribunals to minimize these problems.

Budgetary and Administrative Issues

Paralegal Regulation Start-up Budget

In preparing for the implementation of paralegal regulation, the Law Society developed a budget for start-up costs in 2007. This included such items as by-law drafting and review, development of the rules of conduct, definition of the scope of practice, grandparenting process, examination development for the initial round of grandparent examinations, information systems development, establishment and support for the PSC and a communication campaign addressed to both the public and to the Law Society membership.

Expenditures were required in advance of the collection of any significant amounts from paralegal candidates. Furthermore, the expected start-up costs were projected to exceed initial revenues from paralegal candidates. Start-up costs were therefore covered from a new separate Paralegal Fund with any deficit generated to be recovered through an annual surcharge to paralegals. As it turned out, applicant numbers exceeded projections resulting in a surplus in the Paralegal Fund, a source of funds used to support paralegal activities in subsequent years.

Law Society Budget Process

The Law Society typically prepares its annual budget and sets fees for licensing and annual membership on a break-even basis using a full cost allocation method. Separate budgets are prepared for lawyers and paralegals. Where possible, direct costs are attributed to either lawyers or paralegals. When it is not possible to separate out the costs of paralegal activities, an allocation formula is used.

The Society's annual membership fee has three common components for lawyers and paralegals charged to each member — the general membership fee, the Compensation Fund fee and the Capital Fund fee.

Members fall into one of three fee-paying categories, broadly defined as practising members (100 per cent fee), employed not practising (50 per cent fee) and not working, including parental leave (25 per cent fee).

The first paralegal licences were granted in early 2008, following the first examinations for grandparenting applicants. Subsequent to issuance of a licence, paralegal members are subject to annual fees in the same manner as lawyers. The paralegal start-up budget was wound up in 2008 and transitioned to an annual operational budget supported by fee revenue.

Paralegal Operating Budgets

Use of unique fees for lawyers and paralegals requires distinct fee calculation models. Paralegal annual operating budgets primarily comprise the direct cost of regulatory activities and the operation, maintenance and delivery of the paralegal licensing examination. Other components include a contingency to allow for unanticipated costs that may arise during the year and an amount to ensure the adequate provision of administrative overheads.

Since all operational departments provide some level of support to paralegals, a method of allocating a reasonable portion of expenses for departments without direct paralegal resources is required. This is done in two steps:

- Administrative expenses are allocated to each department based on relevant factors such as head count and floor space.
- Operational expenses are then allocated primarily based on direct paralegal spending as a percentage of total Law Society spending.

Compensation Fund

The Compensation Fund compensates members of the public who have suffered a financial loss through the dishonesty of a licensee. The Professional Regulation Division introduced new guidelines for access to the fund to complement those already in place for lawyers. The Law Society also established a limit of \$10,000 for grant approval for paralegal dishonesty. As licensing developed, claims started to be made against the fund, many of which related to retainers. Up to the end of 2011, the Compensation Fund has paid \$33,000 in grants relating to 40 claims against paralegals.

A separate pool within the Fund has been established for paralegals, funded by the paralegal Compensation Fund levy. Prior to launching this coverage, the Law Society retained an actuary to estimate annual claims for paralegals. This was used to set the initial paralegal Compensation Fund levy.

As a claims history for paralegals has developed over the five years of regulation, the levy calculation has become more similar to that for lawyers. This involves a provision for routine claims, based on the historic claims experience, to approximately cover expected annual costs with no large scale defalcation. The costs of the fund, including salaries and benefits, common expenses and allocated expenses need to be financed. Included in program expenses are the costs of practice audits which are regarded as a risk-control measure. A fund balance also needed to be established as protection against worse-than-expected claims.

Each year, the Law Society has retained an actuary to assist in the calculation of estimates used to set the levy. Actual claims against the paralegal pool of the Compensation Fund have not deviated significantly from actuarial estimates and at December 31, 2011 the balance of the Fund was \$217,000.

Law Foundation of Ontario Grants

All components of the paralegal licensing process have a direct connection to the Law Foundation of Ontario (LFO)'s mandate to support legal education in the public interest. The process assesses core competencies that are of vital interest at the entry-level into the profession.

The LFO grants have supported the access-to-education component of the paralegal licensing process, which includes translation and support services, and lowers the costs for candidates.

The Law Society appreciates the LFO's support, which has been as follows:

2008: \$300,600

2009: \$176,000

2010: \$85,000

2011: \$72,500

ANNUAL FEES

The annual fees for paralegals over the last five years have been as follows:

	Total, of which:	General	Compensation Fund	Capital Fund
2008	\$ 845	\$625	\$145	\$75
2009	\$ 900	\$710	\$145	\$45
2010	\$ 933	\$685	\$183	\$65
2011	\$ 957	\$711	\$171	\$75
2012	\$ 982	\$693	\$214	\$75

These fees are about 50 per cent of the fees paid by lawyers.

For purposes of comparison, the annual fees of some other regulatory bodies are shown in the following table:

Royal College of Dental Surgeons of Ontario	\$1,760
College of Midwives of Ontario	\$1,585
Immigration Consultants of Canada Regulatory Council	\$1,550
College of Physicians & Surgeons of Ontario	\$1,485
College of Dental Technologists of Ontario	\$1,452
Association of Ontario Land Surveyors	\$1,130

Equity Department

Paralegals have been integrated into programs operated by the Law Society's Equity and Aboriginal Affairs Department.

- This includes the Discrimination and Harassment Counsel program, which investigates complaints of any incidents of discrimination and harassment, whether by or in defence of a Law Society member;
- The Equity Advisory Group's Terms of Reference were revised to include a paralegal individual member and a paralegal organizational member;
- The Equity Committee now includes a paralegal member;
- Model policies and guides developed in the equity department are also applicable to paralegals;
- Research has been initiated regarding paralegal demographics. The Paralegal Annual Report includes a self-identification question regarding membership in a list of equity-seeking groups, and the snapshots of the profession are available on the website. The Change of Status survey, which tracks when licensees leave practice, has been expanded to survey paralegals.

Communicating with Paralegals, Lawyers, and the Public

INITIAL OUTREACH

From the beginning of the review period, the Law Society has provided active communications support to paralegals, the public, and other stakeholders. The Law Society continues to use electronic and written materials, teleconferences, the Internet, and email to keep paralegals informed of all aspects of regulation, and to help the public understand the value of having a new group of licensed legal service providers available.

In 2007, no registry or database with contact information for paralegals existed. For the first formal communication, the Law Society invited paralegals to participate in a telephone conference call. More than 800 participants joined the call. The licensing process for grandparenting applicants was explained, as well as the rules for continuing to practise before examinations were held and licences issued. The teleconference included an hour-and-a-half of questions and answers.

After the teleconference, the Law Society received over 200 queries by email. Representatives from Professional Regulation, Professional Development and Competence, Legal Affairs, Policy, and the Client Service Centre departments met for two days to review and develop answers to the questions, which were posted on the Law Society website. Over the following two months, the Client Service Centre received an additional 600 email enquiries, most of which were answered within two days. The Client Services Centre continues to receive queries on a daily basis and strives to maintain the same response time.

ONGOING COMMUNICATION

Electronic registration for the teleconference and subsequent email queries allowed the Law Society to build the initial contact and distribution list. The Law Society created an electronic newsletter, *Paralegal Update*, with regular summaries of new developments in the growth of the regulatory system. Twenty-three editions have been issued to date. A new section dedicated to paralegals was created on the Law Society's website. Professional notices, amendments to rules and by-laws, insurance requirements, and other material continue to be provided to paralegals through these pages. They attract several thousand visits every month.

The contact list for paralegals is now maintained by the Membership Services Department and is updated daily when contact information changes. It now numbers more than 4,000.

Every month that Convocation sits, an electronic newsletter is sent to all paralegals summarizing decisions made and issues discussed. In addition, rule changes, notices to the profession, upcoming events, CPD offerings, and other announcements are made to paralegals using the email distribution list.

A second teleconference for paralegals, held in 2008, covered issues related to business structures and the use of trust accounts.

The development and implementation of paralegal regulation is also of keen interest to lawyers, the courts, and the public. Law Society publications, including the *Gazette* and the *Ontario Reports*, media releases, the website, emails, and printed brochures are all part of the communications support provided. Media interviews continue to be given on all aspects of paralegal regulation. Paralegal benchers and Law Society staff appear regularly as guest speakers at conferences and meetings with various members of and organizations within the legal community.

To help members of the public find a paralegal, the Law Society maintains a public directory of licensed paralegals on the Law Society website. The directory provides contact information and is searchable by name or postal code. It mirrors the public directory for lawyers.

OTHER OUTREACH ACTIVITIES

In addition to extensive discussions with the Ministry of the Attorney General and other government ministries, the Law Society collaborated with other stakeholders in the legal community as the regulatory system for paralegals was put in place. This included establishing consultative roundtables with interested organizations and consulting with these key contacts:

- Senior judges from all levels of the courts.
- Justices of the Peace and Deputy Small Claims Court Judges, before whom paralegals often appear.
- Paralegal organizations including the Paralegal Society of Ontario, the Institute of Agents at Court (now the Licensed Paralegal Association of Ontario), the Paralegal Society of Canada, and several smaller paralegal groups and individual paralegals.

- College Advisory Group — this group, established by the Law Society, advised on the requirements for the accredited college courses and field placements.
- The Legal Organizations Group, including the Ontario Bar Association, The Advocates' Society, and the County & District Law Presidents' Association.
- Legal Aid Ontario and the community legal clinics.
- The Criminal Lawyers' Association and the Family Lawyers Association.
- Senior representatives of administrative tribunals, including:
 - The Financial Services Commission of Ontario ('FSCO') — this tribunal was sufficiently concerned about the absence of paralegal regulation in Ontario that it developed a program to limit who could appear in statutory accident benefit cases — a limited form of paralegal regulation, the 'Register of Statutory Accident Benefit Representatives', a pioneering initiative.
 - The Workplace Safety and Insurance Board (WSIB) — this board is one of the largest in Ontario in terms of paralegal activity and the Law Society continues to work closely with the WSIB on a range of issues.
 - The Workplace Safety and Insurance Appeals Tribunal, to which cases from WSIB may be appealed, also provided helpful advice.
 - The Assessment Review Board.

Paralegal Governance

The governance structure was addressed in the 2004 Task Force Report as follows:

The Consultation Paper set out a model for paralegal governance, involving a Standing Committee of Convocation that would develop policies on paralegal regulation and submit them to Convocation for approval in the same way as other Law Society committees. Unlike other committees, however, it is proposed that Convocation could not at the first instance substitute its own decision for that of the committee, but could send the matter back to the Standing Committee for further consideration. Only on the second consideration could Convocation substitute its own decision.

The composition of the Standing Committee would be:

- a. five paralegals, to be elected from all licensed paralegals (until the first election, the five licensed paralegals would be appointed by the Attorney General);

- b. five elected benchers appointed by Convocation on the recommendation of the Treasurer, and
- c. three lay benchers, appointed by Convocation on the recommendation of the Treasurer, for a total of thirteen members.

All members of the Standing Committee would be under an obligation to act in the public interest.

The Chair of the Committee would always be a paralegal. The Task Force proposes that all thirteen members of the committee choose the chair. The vice-chair would be an elected lawyer bencher or a lay bencher.

The Task Force further proposes that two of the paralegal members of the committee sit as full members of Convocation; these two persons would be chosen by eight members of the committee, the five paralegals and the three benchers. The committee chair would also be a member of Convocation, but would not have a vote (unless he or she is one of the two persons chosen as described).

This model was implemented through amendments to the *Law Society Act* that came into force on October 19, 2006. To permit the PSC to commence work on the details of the regulatory model immediately, section 25.2 of the Act provided that the first five paralegal members were appointed by the Attorney General.

The initial governance structure was conceived at a time when it was estimated that there would be 1,000 to 1,200 grandparenting applicants. In the submissions to this review, a number of paralegals have raised the issue of the proportionality of paralegal representation at Convocation, and only 27 per cent of paralegals in the online survey expressed satisfaction with the current structure. There are currently approximately 44,000 licensed lawyers who elect 40 voting members of Convocation. The over 4,000 paralegals elect two voting members, although the chair of the PSC also attends and speaks at Convocation. As the number of licensed paralegals increases, this issue will probably be revisited. Any change would require an amendment to the *Law Society Act*.

The first election of paralegal members of the PSC was held in March 2010. There were 39 candidates and 2,817 eligible paralegal voters. The election was conducted entirely online, using an external service provider selected through a competitive bidding process.

A total of 831 paralegals voted, a turn-out of 29.5 per cent. The successful candidates were Cathy Corsetti, W. Paul Dray, Michelle Haigh, Kenneth C. Mitchell and Robert Burd.

Once the paralegal members had been elected, the PSC elected the Committee Chair, Cathy Corsetti, who was re-elected in 2011 and 2012. Currently, the two elected paralegal benchers are Paul Dray and Michelle Haigh.

In the relatively short period of its existence, the PSC has completed an extensive agenda, developing all the necessary details of the regulatory model for recommendation to Convocation. The committee has worked very collegially together without tension between the paralegal and non-paralegal members.

Statutory Environment

Creating the paralegal regulatory model required the amendment of dozens of Ontario statutes. The Office of Legislative Counsel provided excellent assistance in this regard. However, some anomalies remain in older statutes, where complex issues arise when considering the most appropriate amendments. These issues have been raised by several paralegals and are discussed in a submission to this review from a paralegal association.

The Law Society continues to work on these issues with government representatives and stakeholders. Among the statutes that have been or are being considered for amendment are the following:

JUSTICES OF THE PEACE ACT

The Law Society recommends appointments to the Justices of the Peace Appointments Advisory Committee, but under the current wording of the Act, appointees must be lawyers. The Law Society has proposed that paralegals should be able to sit on this committee, as they often appear before Justices of the Peace. The Ministry of the Attorney General has the matter under consideration.

COMMISSIONERS FOR TAKING AFFIDAVITS ACT

The Act automatically makes lawyers, by virtue of their office, commissioners for taking affidavits. The Law Society has suggested that this would also be appropriate in the case of paralegals, as they are frequently required to prepare affidavits as evidence in proceedings. It would improve service to the public for paralegals to be able to take an affidavit. The Ministry of the Attorney General has the matter under consideration.

NOTARIES ACT

Under the Act, lawyers are automatically entitled to be notaries, upon application. It has been suggested that this would also be appropriate in the case of paralegals. The Law Society and the Ministry of the Attorney General are reviewing this issue.

SOLICITORS ACT

This Act is a historical piece of legislation that has been amended many times. It includes provisions on several important topics, including contingency fees and the assessment of costs. However, several aspects of the Act have caused difficulty since the introduction of paralegal regulation. The most significant problem is section 1 of the Act, which limits the charging of fees for representation in legal proceedings to lawyers. The provision is not enforced, but causes embarrassment and confusion. The Law Society has recommended that this provision be reworded, and it may be appropriate to consider re-allocating the remaining provisions of this Act to other statutes.

BARRISTERS ACT

A related issue arises in the context of this historical statute. Section 3 provides that Queen's Counsel have precedence in court, and that precedence for other counsel is to be set by year of call to the bar. This provision dates from before other legal service providers were contemplated, and while it is again not generally observed, it has occasionally caused problems when matters to be argued by a paralegal have been moved to the bottom of the court list. The Law Society recommends that the Act be amended to ensure that paralegals are treated with respect and clients are not prejudiced by their choice of representative.

JURIES ACT

The Act currently exempts lawyers from jury duty but does not exempt paralegals. The Law Society would regard it as appropriate for paralegals to be treated the same. However, it should be noted that some common law jurisdictions have removed the exemption for lawyers.

IMMIGRATION AND REFUGEE PROTECTION ACT

By-law 4 sets out the current scope of practice for paralegals, which includes advocacy work before both provincial and federal tribunals. However, in 2009 the Law Society became aware that the federal Immigration and Refugee Board was refusing to accept Ontario licensed paralegals as representatives. Accordingly, the Law Society

made a number of submissions and representations to the federal government when the relevant legislation, the *Immigration and Refugee Protection Act* was to be amended in 2010. Bill C-35 was referred to the House of Commons Standing Committee on Citizenship and Immigration on September 23, 2010. The Committee reported the Bill to the House on November 24, 2010 having added paralegals to the list of those eligible for an exemption (new section 91(1)(b)). Bill C-35 was passed by the House of Commons on December 7, 2010 with all the amendments proposed by the committee, and was proclaimed in effect in 2011.

OTHER STATUTES

In the course of the review, other statutes were mentioned that potentially require consideration, including the *Insurance Act*, the *Private Security and Investigative Services Act*, the *Criminal Code*, and the *Legal Aid Services Act*.

The Law Society continues to work with the government on the necessary updating of statutes, which is an unavoidably complex process.

By-law 4 Exemptions

One area that has caused challenges for the Law Society is the development of the appropriate exemptions to regulation. As mentioned above, subsection 1(8) of the *Law Society Act* excludes four groups from Law Society regulation:

- other regulated professions, within the normal course of their work;
- in-house employees preparing documents for their employer;
- persons acting on their own behalf; and
- trade union representatives dealing with members' trade union matters.

In addition to these four areas, subsection 1(8) gives the Law Society authority to exempt any other persons or classes of persons by by-law, providing wide discretion to determine the areas of legal services that the Law Society regulates. The development of the appropriate list of exemptions has been challenging, and sections 28 to 30 of By-law 4 have already been amended several times. When the initial exemptions list was developed in 2007, the By-law explicitly provided for a review of exemptions to be conducted after two years. This review, which took place over the course of 2009, involved extensive consultations with affected parties and led to a number of revisions, adopted in 2010.

The Law Society has taken the position that it would be desirable for the number of exemptions to be further reduced over time. The large number of exempted persons who applied under the Integration Process may assist in this regard. The Law Society has noted that many employers are now hiring licensed paralegals in exempt positions, which is an indication of the growing respect for the new profession.

Since the 2010 revisions, the most difficult issues have remained those in connection with the exemption for "friends". This exemption was created for situations such as where someone wishes to help a neighbour or co-worker who may have poor language skills or anxiety about speaking in court, for no fee. However, there is no doubt that it has sometimes been used by unscrupulous persons wishing to evade the law, by claiming to be the friend of large numbers of parties and charging under the table fees. For this reason, the subsection 30 (1) of By-law 4 was amended in June 2010 to limit the exemption to,

An individual:

- i. whose profession or occupation is not and does not include the provision of legal services or the practice of law;
- ii. who provides the legal services only for and on behalf of a friend or a neighbour;
- iii. who provides the legal services in respect of not more than three matters per year; and
- iv. who does not expect and does not receive any compensation, including a fee, gain or reward, direct or indirect, for the provision of the legal services.

The limitation to "not more than three matters per year" has assisted in reducing abuse of the exemption, but has not eliminated it. One of the difficulties is the lack of effective tracking mechanisms regarding how many times a particular individual has appeared as a representative. Since the potential locations for such appearances are in a variety of courts and tribunals throughout Ontario, it is not feasible for the Law Society to keep track. It is hoped that over time it may become possible for individual courts or tribunals to take steps in this regard.

Public Satisfaction with Paralegal Regulation

Assessing the effect of paralegal regulation on the public requires consideration of whether Law Society regulation has succeeded in establishing:

- a. reasonable standards of competence for Ontario paralegals such that the public has access to competent services;
- b. accessible information about the legal services available in Ontario;
- c. fair and transparent complaint procedures for the use of members of the public who have concerns about the conduct or competence of licensed paralegals; and
- d. an accessible, transparent discipline process to address breaches of Law Society standards.

Obtaining objective data on public satisfaction with paralegal regulation represents a challenge. Most members of the public have limited awareness of any legal issues, and of who could assist them with legal problems, until they have a specific problem. To obtain representative data, the consultant retained by the Law Society sought as large a sample as possible of Ontarians who had used the services of a paralegal in the last three years. The primary services used related to traffic disputes, small claims court matters, landlord and tenant issues, and workers' compensation.

Results of the survey indicate a general degree of satisfaction with the paralegal services used.

- 74 per cent of clients were satisfied or very satisfied with the services they had received.
- 87 per cent would use paralegal service again.
- 68 per cent reported that paralegal services were good value.

Understandably, knowledge of the regulation of paralegals was more limited. Only 55 per cent were aware that a dissatisfied client could complain to the Law Society.

Generally, the effect on the members of the public can be assessed in terms of the availability of professional services from a newly regulated profession, and the improved protection of vulnerable clients from substandard services from which there used to be no recourse.

Conclusions

1. The implementation of the regulation of paralegals in Ontario has been a success, and has provided consumer protection while maintaining access to justice. The paramount consideration in the development of the model has been protection of the public interest. Paralegals are now required to be licensed and insured and to pay into a compensation fund in the same manner as lawyers. They are required to observe the *Paralegal Rules of Conduct* and to have their practices examined regularly under the Law Society's practice review program, and to engage in Continuing Professional Development. Paralegals are well on the way to establishing a prestigious and well-regarded profession. Among surveyed paralegals, 71 per cent indicate they believe that regulation has been beneficial for them.
2. The Law Society was, and continues to be, the right choice of regulator for paralegals — a view endorsed by about three-quarters of surveyed paralegals. It is implausible that a new regulator created from scratch could have achieved comparable progress in five years. Regulation has been achieved at reasonable cost and without undue burden on licensed paralegals. The Law Society has provided services to paralegals in a wide range of areas. It has also addressed issues and problems as they have arisen, to ensure proper respect for paralegals as professional legal service providers.
3. The large group of paralegals who were providing legal services before regulation have been integrated into the regulated profession. Paralegals report being regarded with more respect, while tribunal adjudicators, judges and justices of the peace report improvements in courtroom and hearing room deportment. The grandparenting process was fair and transparent, although the good character hearings process was perceived as slow. Among surveyed paralegals, 83 per cent report being satisfied with the grandparenting process.
4. The first few cohorts of students have graduated from accredited paralegal college programs. Submissions to the review included arguments that the standards of the college programs should be reviewed with the intention of making them more rigorous. Some have suggested that the education requirement should have a pre-requisite of two years of college. Any changes would have to be balanced with access to justice considerations. The Law Society regularly reviews the appropriate standards of competence for its licensed legal service providers. These issues formed part of the recent *Legal Needs Analysis* report prepared by the Professional Development and Competence Department. The primary goal is to ensure that competent, ethical and accessible legal services are available to the people of Ontario. Five years is still early in the development of the model. Enhancements and refinements over time will continue to improve regulation for both the public and paralegals.
5. In spite of extensive communications work by the Law Society, public awareness has not kept pace with the changes in the legal services market. Further work is required on communication strategies, especially in explaining the services that lawyers and paralegals provide and the differences between them.
6. The 'exempt' categories continue to provide challenges; the Law Society has taken the position that it would be desirable for the number of exemptions to be reduced over time. In addition, more work is required with the courts and tribunals to develop tracking mechanisms to obtain information on exempted persons. While a number of submissions proposed that the Law Society place conditions on unlicensed exempted persons, there is no legal authority for the Law Society to do this.
7. While a large number of provincial statutes were amended as part of the introduction of paralegal regulation, there remain some anomalies in older statutes. The Law Society continues to work with the government on the necessary amendments.
8. The governance structure laid out in the *Law Society Act*, based on the 2004 Task Force Report, has worked well. Members of the Paralegal Standing Committee (PSC) work together cordially, without tension between the paralegal and non-paralegal members. No PSC report has ever been rejected by Convocation. One report was sent back for further consideration, after which the PSC adopted the view of Convocation. The initial allocation of two paralegal benchers, in addition to having the chair of the PSC attend Convocation with a voice but no vote, will become increasingly disproportionate as the number of licensed paralegals increases. Adjusting this would require a statutory amendment.

9. Most paralegals express satisfaction with overall progress so far; 68 per cent of surveyed paralegals indicate they are ‘satisfied or very satisfied’ with Law Society regulation. Coming under the Law Society’s umbrella has had important advantages in credibility and prestige for paralegals, and has provided access to the wide range of services that the Law Society provides.
10. There are some criticisms, some of them involving dissatisfaction with issues outside the Law Society’s jurisdiction, such as:
- the amendment of provincial statutes;
 - the length of the paralegal good-character hearings process, which necessarily adheres to principles of natural justice;
 - the increase in the numbers and class size in the paralegal college programs — as noted in a number of the submissions, while the colleges have an incentive to market their programs, there is obviously no guarantee that graduation will lead to employment or a viable practice.
11. Some criticisms relate to the activities of peers — many paralegals are critical of other paralegals’ business names, practices and advertisements, and have taken the position that the Law Society is too lenient when paralegals complain about each other.
12. While 62 per cent of surveyed paralegals indicate satisfaction with the current scope of practice, some paralegals have expressed the view that it should be expanded. The Law Society remains committed to taking an analytical view of the appropriate skills and competencies for specific services, and has been actively researching whether changes to the scope of practice are appropriate, as part of the *Legal Needs Analysis* referred to above. This report is now being reviewed by Law Society committees and will be forwarded to Convocation for consideration. Following that, a broader framework for consultation will be established, so that the legal community and other stakeholders can provide their views.

Appendices

Submissions Received

GROUPS AND ORGANIZATIONS

The Advocates' Society
County and District Law Presidents' Association
Criminal Lawyers' Association
LAWPRO
Legal Aid Ontario
Licensed Paralegal Association
Ontario Bar Association
Ontario Society of Collection Agents
Ontario Trial Lawyers Association
Peel Law Association
Toronto Lawyers Association
Workplace Safety and Insurance Appeals Tribunal

INDIVIDUALS

Mark Brown
Angela Browne
Donna Chaplow
Paul Duarte
Charles Foster
William Grimmett
Henry Lowi
Dan McIntyre
Stephen Parker
Michael Pawlowski
Oleksandr Pichugin
Pamela Thomson & Gary Parker
Shawn Weston
Anonymous

**Five Year Review of Paralegal Regulation:
Research Findings**

Final Report

For The Law Society of Upper Canada

**Submitted:
May 6, 2012**

**Prepared by:
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1.0 Introduction

The Law Society of Upper Canada assumed responsibility for the regulation of paralegals in 2006, as a result of amendments to the *Law Society Act*. Under the amended *Law Society Act*, the Law Society is required to conduct a review of the regulation of paralegals five years after regulation went in to effect on May 1 2007.

This research project was designed to review the manner in which paralegals have been regulated during the five year review period and the effect that such regulation has had on paralegals and members of the public.

With respect to paralegals, research explored:

- Impressions of the impact of regulation on the paralegal profession and the impact of regulation on the public.
- Opinions regarding the manner in which the process of regulation was introduced and the extent to which regulation of paralegals has established:
 - Fair and transparent processes for applicants to obtain a paralegal license;
 - Reasonable standards of competence and conduct for paralegal members of the Law Society; and
 - Fair and transparent discipline processes for situations where it is alleged that licensed paralegals have failed to observe Law Society standards.
- Opinions regarding the role of the Law Society as the regulator of the paralegal profession.

With respect to the public, research explored:

- Awareness and knowledge of paralegal regulation and paralegal services.
- The experience of using paralegal services and impressions regarding the impact of regulation on individuals seeking and using the service of paralegals.
- The extent to which Law Society regulation has succeeded in establishing:

- Reasonable standards of competence such that the public has access to competent services.
- Accessible information about legal services available in Ontario.
- Fair and transparent complaint procedures for the use of members of the public who have concerns about the conduct or competence of paralegals.
- An accessible, transparent discipline process to address breaches of Law Society standards.

This report presents the findings of an online survey of licensed paralegals and an online survey with members of the public who use paralegal services. Where appropriate the report also references findings from two earlier phases of research: key informant interviews (fall 2011) and nine focus groups (January, 2012).

2.0 Methods

Key Informant Interviews

The first phase of the research component of the Law Society's five year review of paralegal regulation was an organized scan of the context, issues and perspectives associated with the regulation of paralegals. Interviews were conducted with seven individuals, selected for their knowledge of the history, design and implementation of paralegal regulation, and their insight into the issues associated with paralegal regulation. A focus group with 12 members of the Law Society's Paralegal Standing Committee explored the purpose and objectives, design, and impact of paralegal regulation. A final round of interviews was conducted with eight judges, Justices of the Peace and adjudicators in Ontario courts and tribunals where paralegals appear. Findings from this research were presented in an interpretive memorandum ('Review of Paralegal Regulation: Summary of Interviews,' January 16, 2012).

Focus Group Research

In January 2012, nine focus groups were conducted in Toronto (3), London (2), Sudbury (2) and Ottawa (2), including five groups comprised of paralegals and four with individuals who reported having used the services of a paralegal during the past two years. Focus groups with

licensed paralegals explored impressions of the impact of regulation on the paralegal profession and the public who use paralegal services, and the experience of regulation by the Law Society, including licensing requirements, competence and conduct, discipline and other issues. Focus groups with members of the public explored knowledge of paralegals and awareness of regulation, experiences using paralegal services and impressions of the impact of regulation on the public. Results of focus group research were presented in a final report (*Review of Paralegal Regulation: Focus Group Research Findings*, April 4, 2012).

Online Survey of Paralegals and the Public

Based on the issues identified and hypotheses generated in the first two phases of research, two survey questionnaires were drafted for online administration to paralegals and members of the public who use paralegal services.

The paralegal survey questionnaire was comprised of 29 questions which identified practice characteristics, explored general impressions of the impact of regulation for paralegals and the public, the licensing process, competence and conduct, discipline and the role of the Law Society as regulator. The online survey was promoted on the Law Society website and by regular email communications to all licensed paralegal members of the Law Society. The survey was fielded from March 10 to 29, 2012 and was completed by 1,320 licensed paralegals or 32% of the 4,158 paralegal members of the Law Society. Final results, including three open-ended questions, were coded and analyzed using SPSS 12.0. Results are accurate within +/- 1.8%, 19 times out of 20.

The survey questionnaire administered to members of the public who use paralegal services was comprised of 30 questions which identified demographic characteristics, explored awareness and contact with paralegals, experience using paralegal services and impressions regarding the impact of paralegal regulation. This survey was fielded online using a proprietary panel from March 12 to 21, 2012, resulting in 1,001 completed surveys across Ontario.¹ Final results, including two open-ended questions, were coded and analyzed using SPSS 12.0.

¹ Survey participants were screened for participation with the following question:

Paralegals in Ontario independently represent clients in provincial offences court, summary conviction criminal court, small claims court and administrative tribunals such the Financial Services Commission of Ontario or the Workplace Safety and Insurance Board. Have you used the services of a paralegal in the past two years for personal or business purposes?

3.0 Summary of Findings

Paralegal regulation is viewed as beneficial and effective by the paralegal profession and the public who use paralegal services. Both groups view regulation as contributing to increased consumer protection and higher professional standards of paralegal service. Both groups were satisfied with most of the aspects of regulation and paralegal services they were asked to assess. Although a significant minority of paralegals and those using paralegal services viewed regulation as making 'no difference' to some aspects of the provision of paralegal services, comparatively small numbers of both groups expressed outright dissatisfaction or identified negative impacts arising from the regulation of paralegal services.

3.1 Paralegals

Paralegals view regulation as beneficial, overall, for the paralegal profession: promoting higher professional standards, improving competence and conduct, enhancing the stature of the profession in the view of the public, increasing its credibility before judges and lawyers, and appropriately defining areas of practice. Paralegals also viewed regulation as beneficial for the general public, although only moderately beneficial in areas of improving access to information and increasing public awareness about regulated legal services provided by paralegals.

Grandparented and non-grandparented paralegals indicated high levels of satisfaction with the fairness, objectivity and transparency of the licensing process and the good character requirements, although non-grandparented paralegals were somewhat less satisfied that their college program had been adequate preparation to practise as a paralegal. Both groups were very satisfied with the Paralegal Rules of Conduct and moderately satisfied with the Continuing Professional Development (CPD) requirements and the practice audit process. There is strong overall satisfaction with the complaint process and moderate satisfaction with specific aspects of the Law Society's handling of complaints against paralegals.

The Law Society is widely viewed as having been and continuing to be the appropriate organization to regulate paralegals. About two-thirds of licensed paralegals are satisfied, overall, with Law Society regulation although satisfaction with specific areas of regulation - enforcement of ethical standards, responding to information requests and regulation of competence among paralegals - is slightly lower. The extent and variety of CPD programs and resources is a source of dissatisfaction for a somewhat higher than average proportion of paralegals (about one-fifth), which may reflect the diversity of needs and expectations

regarding this program. One source of dissatisfaction among paralegal members is the annual fees paid to the Law Society, which fewer than one-third viewed as reasonable.

Paralegals are divided on the issue of their representation in the governance of the Law Society. About one-quarter agrees and about two-fifths disagree that paralegals are adequately represented at present.

Practice Characteristics

- The province-wide survey sample of 1,320 licensed paralegals included 59% of paralegals with less than and 41% with more than six years experience.
- A majority (52%) received their licence in 2008.
- Almost half (48%) of survey respondents were licensed under the grandparenting provisions, and 91% of the grandparented group was licensed in 2008.
- Just over three-fifths (62%) reported practising full-time and 9% reported practising part-time as a licensed paralegal in Ontario.
- Just under half of the survey respondents are in private practice as a sole practitioner (40%), partner (4%) or associate (4%), and just over one-quarter (26%) indicated they are in private legal/paralegal practice as an employee. Nine percent reported they are not currently employed or not employed in Ontario.
- Major areas of practice cited included Small Claims Court (40%), Ontario Court of Justice (Provincial Offences Act) (37%), Landlord and Tenant Board (27%), and the Workplace Safety and Insurance Board (18%).

Impressions of Regulation

- Seventy-one percent of survey respondents viewed regulation of paralegals as beneficial, overall, for the general public, and 60% viewed it as helping to establish fair and transparent complaint procedures.
- Paralegals were more qualified in their assessment of other potential benefits of regulation for the public. A majority felt regulation had improved access to legal services (58%) and

access to information about legal services (54%). A narrow majority (51%) felt regulation had increased public awareness about legal services provided by paralegals, but almost one-quarter (24%) felt it had done little or nothing to increase public awareness.

- A strong majority of paralegals felt regulation was beneficial, overall, for the profession (71%), improved overall standards of competence and conduct for paralegals (73%), and improved the competence and conduct of paralegals (70%).
- A majority of survey respondents also felt that regulation had improved the credibility/stature of the paralegal profession in the view of the public (67%), appropriately defined permitted areas of practice for licensed paralegals (62%), and improved the credibility of paralegals in the eyes of judges, lawyers and tribunal members (57%).

Licensing

- A very strong majority of paralegals licensed under grandparenting provisions were satisfied with the fairness (84%), transparency (80%) and objectivity of the grandparenting process (79%).
- Seventy percent of non-grandparented respondents indicated they were satisfied that their college program was adequate preparation for the licensing examination and 64% were satisfied that their college program was fair.
- Among non-grandparented respondents barely half were satisfied (50%) and one-quarter were dissatisfied (26%) that their college program had adequately prepared them to practice as a paralegal. Open-ended comments from these respondents revealed a variety of concerns related to the need for improved education and training.
- A very strong majority of all survey respondents were satisfied that the licensing examination process was fair (83%), objective (80%) and transparent (77%). On each of these measures a majority of respondents were 'very satisfied.'
- A similarly strong majority of survey respondents were satisfied that the good character requirement and the process for determining it is fair (79%), objective (77%) and transparent (75%). On each of these measures about half of the respondents indicated they were 'very satisfied.'

Competence, Conduct and Discipline

- Eighty-four percent of survey respondents were satisfied with the Paralegals Rules of Conduct, including 51% who were very satisfied.
- Just under two-thirds (65%) were satisfied with the Continuing Professional Development (CPD) requirements.
- A majority of survey respondents (59%) were satisfied with the practice audit process, although 21% answered 'don't know.' Among the 9% of respondents (n=115) who reported having had direct experience with the practice audit process, satisfaction rose to 77% (47% very, 30% somewhat).

Governance and the Law Society as Regulator

- Asked if the Law Society is the appropriate agency to regulate paralegals 74% answered definitely (51%) or probably (23%), while 17% indicated they were unsure of the alternative and 9% answered no.
- Just over two-thirds (68%) of respondents were very (34%) or somewhat satisfied (34%) with the Law Society's regulation of paralegals.
- A majority of respondents indicated they were satisfied with the manner in which the Law Society enforces ethical and professional standards (61%), how it responds to information requests (62%), and how it regulates competence (59%).
- A bare majority of 54% of survey respondents were satisfied and 20% were dissatisfied with the extent and variety of CPD programs. This comparatively low ratio of satisfaction to dissatisfaction would appear to confirm focus group findings which suggested there are some differences in the needs and expectations of paralegals with respect to the CPD program.
- Just 32% of survey respondents were satisfied with the annual fees paid to the Law Society whereas 39% were dissatisfied. The issue of fees was one of the very few aspects of regulation tested in this survey where negative response was stronger than positive.

- Whereas 27% of respondents agreed that paralegals are adequately represented in the governance structure of the Law Society, 39% disagreed and 34% indicated they were unsure.

The Complaint Process

- Among respondents who reported having been contacted regarding a complaint against them (n=166), 73% indicated they were, overall, satisfied with the way the Law Society had handled their complaint. On specific aspects of the complaint process, 68% were satisfied that the process was reasonable and fair, 67% that it was transparent and 63% that there was a timely resolution of the matter.

3.2 Users of Paralegal Services

Individuals choose the services of paralegals to deal with a range of legal matters because paralegals are less expensive than lawyers, the legal matter is comparatively simple, paralegals have the appropriate specialization and they are easier to manage than a lawyer.

Many rely on friends/coworkers/family or their lawyer to refer them to a paralegal and help them confirm that they have made the correct choice. Individuals also use the internet, although many do not find the internet that helpful to their search for services or information. As focus group and survey findings suggest, users of paralegal services feel the need for more and better information about legal services in Ontario.

Those who use paralegal services are quite satisfied with the quality and value, and they would use those services again in a similar situation. A majority have some awareness that a complaint process exists but less than one-third reported being aware of how the complaint process works, less than one-tenth of respondents reported having considered making a complaint, and just 3% took steps to do so.

Users of paralegal services view regulation as having practical benefits. Reinforced by their own positive experiences of using paralegal services, they are confident that regulation will ensure they receive competent service from paralegals in the future.

A narrow majority of survey respondents viewed paralegal regulation as contributing to a better justice system in Ontario and making paralegal services more competent and

professional, and a large minority endorsed the view that regulation increases access to justice. On all of these issues only a small percentage of respondents viewed regulation as having a negative impact, but a large minority, and in one case half, opted for a neutral response ('makes no difference' or 'don't know').

The Survey Sample

- The Ontario-wide sample (n=1001), comprised of individuals who reported having used paralegal services on at least one occasion during the past two years, included 28% from Toronto, 29% from the GTA outside Toronto, 40% from Central and Southern Ontario, and 3% from Northern Ontario.

Deciding to use Paralegal Services

- Just under two-thirds of respondents (57%) reported having used paralegal services on one occasion, 35% on two to four occasions and 8% on five or more occasions during the past two years.
- Respondents listed traffic ticket/traffic violation (40%), Small Claims Court (21%), landlord/tenant disputes (18%), and Workplace Safety and Insurance Board (10%) among the most frequently used types of legal services they had received from paralegals.
- Almost half (46%) cited lower cost as the reason they chose to use the services of a paralegal rather than those of a lawyer. Other reasons included: simple matter/not requiring a lawyer (41%), the paralegal was experienced/specialist in that area of law (33%), and it was easier to hire and manage a paralegal than a lawyer (23%).
- Almost half (49%) chose paralegal services based on the recommendation of friends, coworkers or family members. 19% cited referral from a lawyer, and 16% accessed a website.

Accessing Paralegal Services and Information

- Just over two-thirds (69%) reported that it was very or somewhat easy to locate a paralegal that suited their needs, 62% that it was easy to find the information they

needed about a paralegal service provider and 61% that it was easy to find the information they needed to manage their legal matter with a paralegal.

- Although most respondents reported using the internet to find paralegal services and information, many may have been unaware of where to look for services and information.
- Thirty-eight percent of respondents reported taking specific steps to confirm they had chosen a paralegal with sufficient experience and credentials. The most common actions were: seeking assurance from friends, coworkers or family members (47%), asking the paralegal service provider directly to explain their credentials/experience (44%), and searching the internet for reviews, comments or online chat (33%) about the service they had chosen.

The Experience of Using Paralegal Services

- Almost three-quarters (74%) of survey respondents reported they were satisfied with the paralegal services they had received, whereas 9% reported they were dissatisfied.
- Nine questions explored individuals' satisfaction/dissatisfaction with how their paralegal had handled their legal matter. Seventy-nine percent were satisfied that their paralegal had behaved in a professional manner, 75% that their paralegal had sufficient knowledge of the law and the relevant legal jurisdiction, 71% that the paralegal respected their decisions on legal matters, 71% that their paralegal knew how to do his/her job, and 71% that their paralegal had explained their fees and the estimated costs.
- Respondents also registered moderate to strong levels of satisfaction on the other four questions tested. Seventy percent were satisfied that their paralegal had explained his/her approach to their legal matter and the risks involved, 68% that their paralegal had explained the range of possible outcomes, 66% that they had been kept informed of the progress of their case, and 63% that the paralegal had provided an estimate of the time required for the case.
- On each of the nine questions referred to above, less than one-tenth of respondents reported they were dissatisfied with the paralegal service they had received.

- Just over two-thirds (68%) of respondents described the paralegal services they had received as very good (32%) or good (36%) value for the fees charged.
- Eighty-eight percent of respondents indicated they would definitely (41%) or probably (47%) use similar paralegal services if they encountered a similar situation.

The Complaint Process

- A narrow majority (55%) reported they were aware that they could make a formal complaint to the Law Society if they had concerns about the paralegal services they had received, and just 31% indicated they were aware of how the complaint process works.
- Four-fifths (80%) of respondents reported having no specific concerns and no reason to consider making a complaint, 11% reported having concerns but not having considered making a complaint, and 5% considered making a complaint but had not followed through. Of the remaining 3%, 1% had made a complaint but did not complete the process, 1% had completed the process and 1% was still involved in the complaint procedure.

The Impact of Regulation

- A narrow majority of survey respondents (53%) indicated that having regulated licensed paralegals in Ontario makes the justice system better and 5% indicated it makes the system worse. Just over two-fifths indicated it 'makes no difference' (32%) or answered 'don't know' (10%).
- A narrow majority (52%) reported they were satisfied with their own access to information about legal services in Ontario and 12% were dissatisfied. A further 31% were neither satisfied nor dissatisfied.
- Asked to choose between two opposing views, 59% agreed that 'regulation protects the public from incompetent and unethical paralegals,' 18% agreed that 'regulation is red tape that raises legal costs,' and 23% indicated that neither statement was close to their own view.

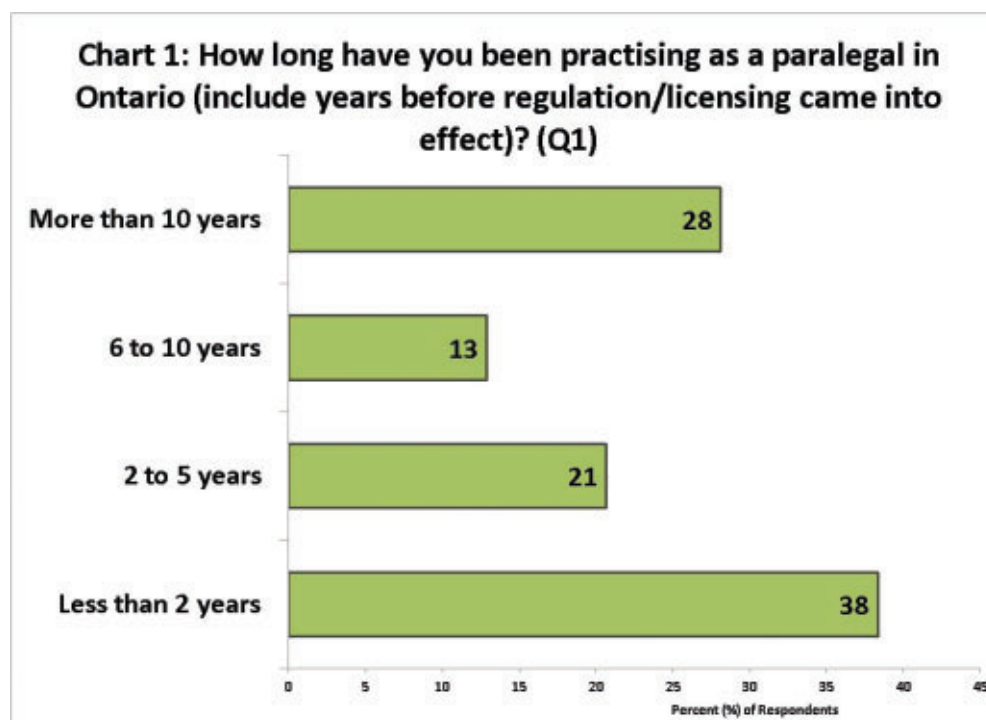
- A narrow majority (51%) believed regulation contributed to more competent and professional paralegal services, whereas just 5% believed regulation contributes to less competent and professional services.
- Four-fifths (80%) of respondents reported they were very confident (21%) or somewhat confident (59%) that regulation would ensure they receive competent paralegal services in the future.
- Asked about the impact of regulation on access to justice, 45% indicated it would increase access to justice, 5% that it would decrease access to justice and 42% that it would make no difference.

4.0 Paralegals: The Experience of Regulation

4.1 Practice Characteristics

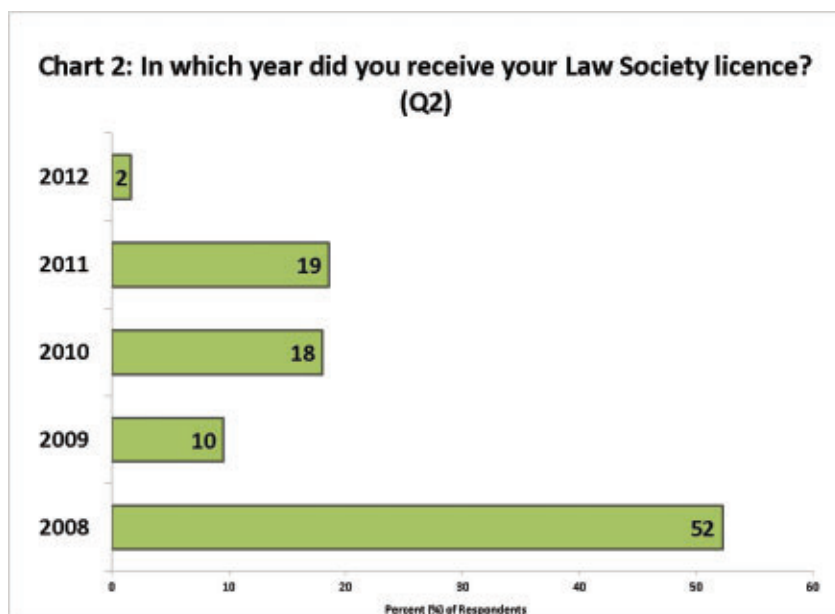
4.1.1 Years Practised and Licensed

About three -fifths of survey respondents (59%) reported having practised as a paralegal in Ontario for 5 years or less, including 38% who have practised for less than two years and 21% for two to five years. About two-fifths (41%) have practiced for more than six years, including 13% with six to ten years experience, and 28% who have been practicing for more than 10 years. **(CHART 1)**

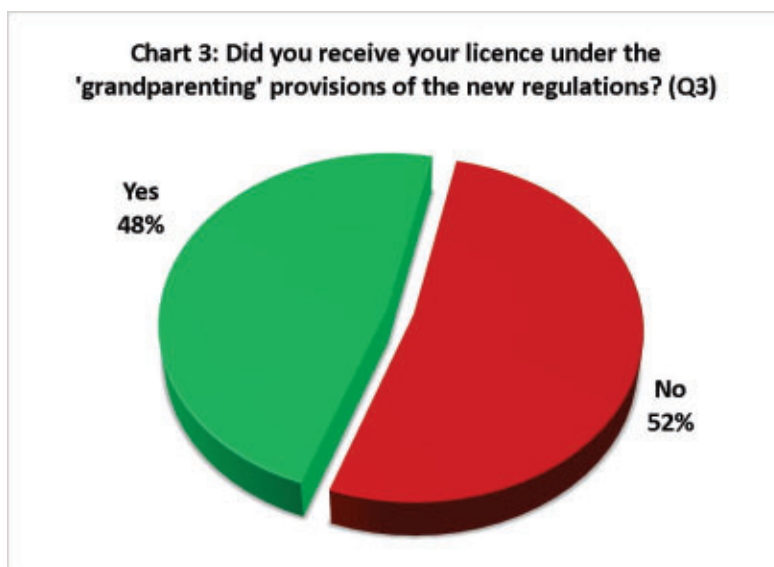


Just over half the survey respondents (52%) received their licence in 2008, 10% in 2009 and 18% and 19% in 2010 and 2011 respectively **(Chart 2)**.²

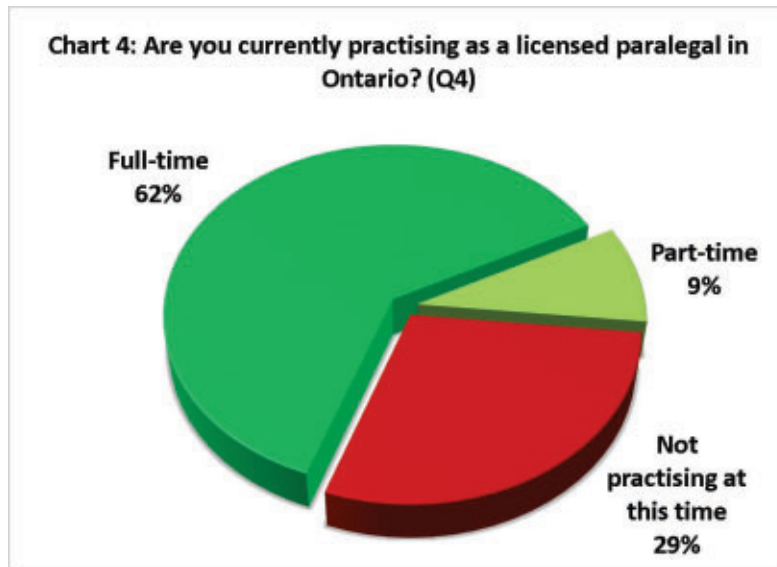
² Percentages for 2012 are partial, since the survey period ended March 29, 2012.



Paralegals who received their licence under the grandparenting provisions comprised roughly half (48%) of all survey respondents (**Chart 3**). Of those who reported having received their licence under the grandparenting provisions, 91% were licensed in 2008, 5% in 2009, 2% in 2010 and 2% in 2011. Taken as a percentage of *all* newly licensed paralegals, those licensed under the grandparenting provisions comprised 83% of all new licensees in 2008, 26% in 2009 and just 5% in each of the following years.



Sixty-two percent of respondents reported they currently practise full-time and 9% practice part-time, while 29% reported that they are not currently practising. **(Chart 4)**

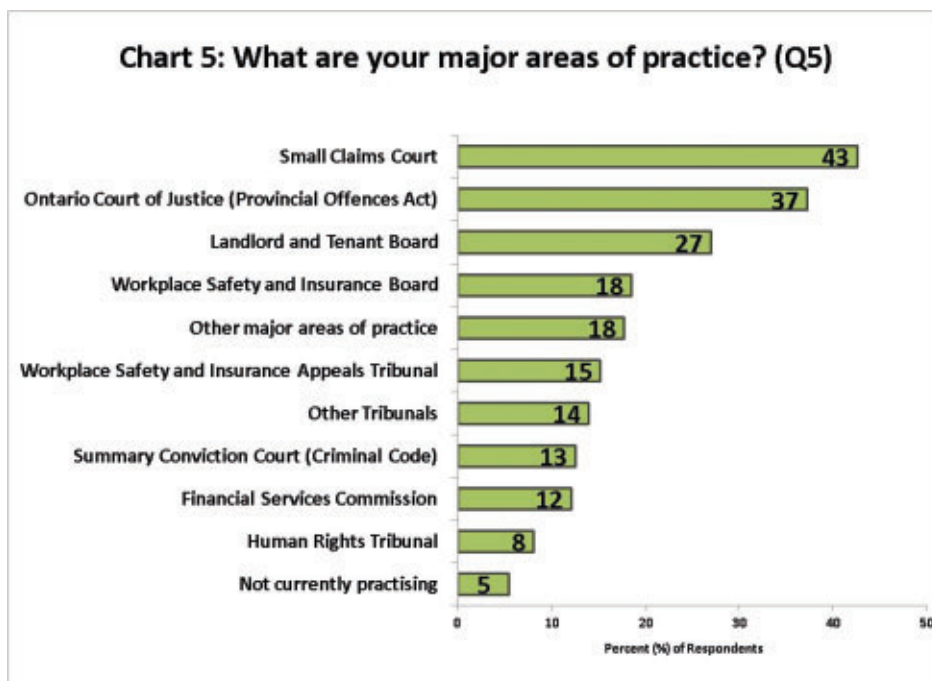


Survey respondents who were *more* likely than average to report practising full-time included: men (70%), those who have practised six to 10 years (82%) or more than 10 years (84%), those who were licensed under the grandparenting provisions (80%), and those who are 50 to 65 years of age (69%).

Survey respondents who were more likely than average to report not practising at this time included: paralegals who are women (39%), those who have been practising for less than two years (55%), those who were licensed in 2010 (48%) and 2011/12(46%), and those who are less than 35 years of age.

4.1.2 Area of Practice and Type of Practice

Areas of practice most frequently cited included Small Claims Court (43%), Ontario Court of Justice (37%), Landlord and Tenant Board (27%), the Workplace Safety and Insurance Board (18%) and the Workplace Safety and Insurance Appeals Tribunal (15%)



Of the 18% of respondents (n=235) who cited 'other major areas of practice' the most frequent mentions were the Statutory Accident Benefits Schedule and/or personal injury (28%), immigration, refugees, and citizenship (17%), working under a lawyer or with a law firm (12%), and Property Tax Assessment (11%).³

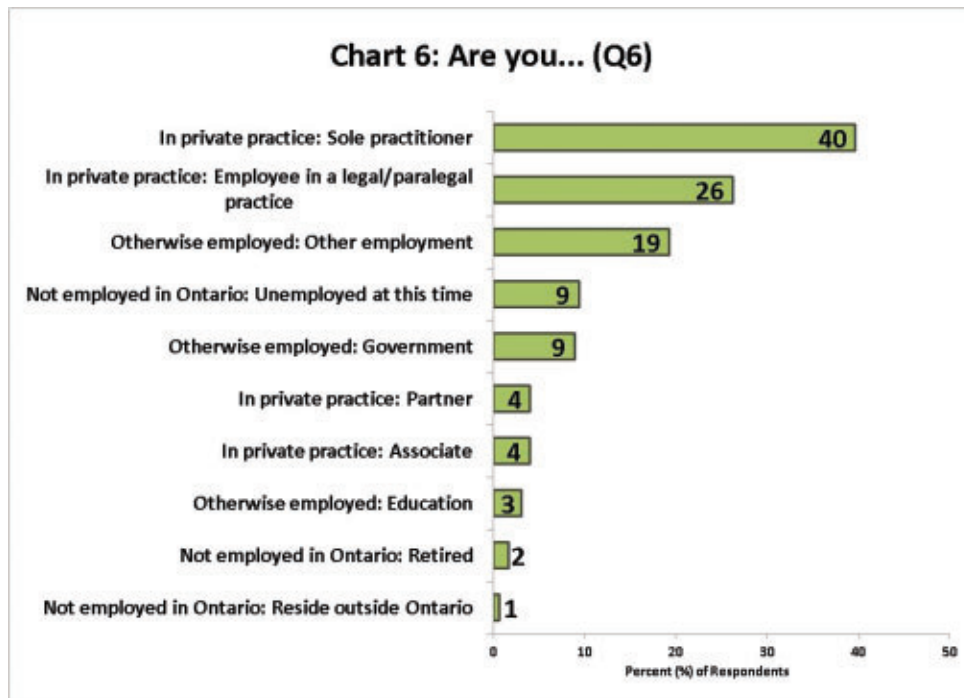
Of the 13% of respondents (n=184) who cited 'other tribunals' among their major areas of practice, the most frequent mentions were the Assessment Review Board (25%), pension/disability issues (19%), the Ontario Labour Relations Board (14%), immigration/citizenship (11%) and the Social Benefits Tribunal (10%).

As **Chart 6** shows, 40% of survey respondents indicated they are a sole practitioner in private practice, 26% are in private practice as an employee in a legal/paralegal practice, 4% are in private practice as an employee, and 4% are in private practice as an associate.

Among respondents who reported they were 'otherwise employed' 19% indicated other employment, 9% indicated government and 3% specified education.

³ The results reported for 'other major areas of practice' and 'other tribunals' are based on coding of survey respondents open-ended comments. Response categories have been selected by the researcher to capture a 'basket' of related words and phrases.

Among those who reported they were not employed at this time, 9% indicated 'not employed in Ontario: unemployed at this time,' 2% were retired and 1% resided outside Ontario.

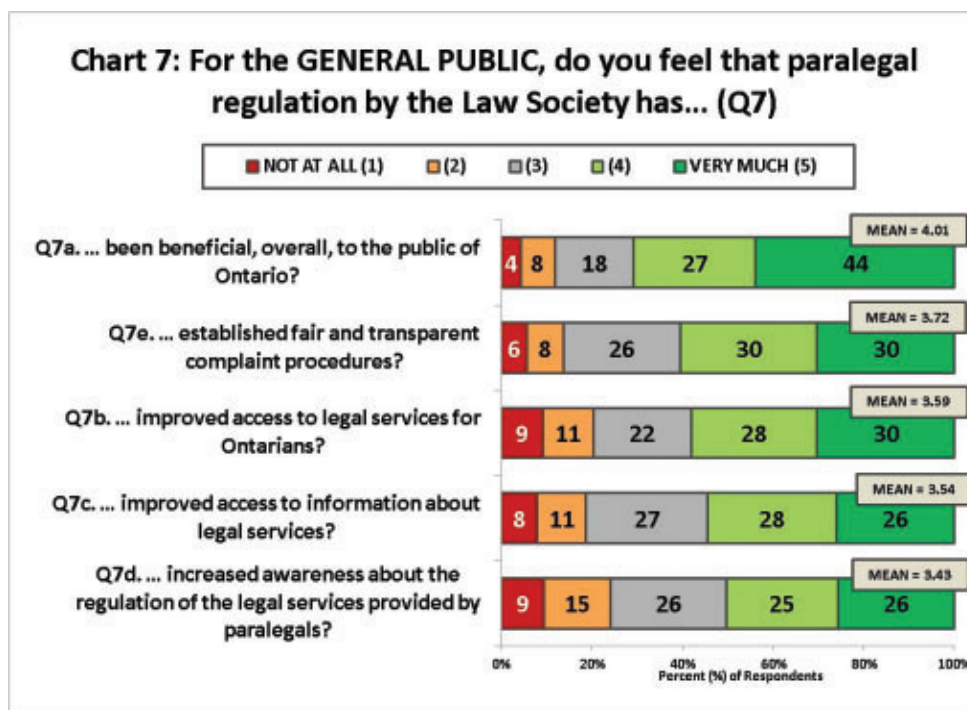


4.2 Impressions of Regulation

4.2.1 Impact of Regulation on the Public

Five questions explored paralegals' opinions regarding the impact of regulation on the Ontario public. **Chart 7** shows responses to each, based on a five-point scale ranging from 'not at all' to 'very much.'

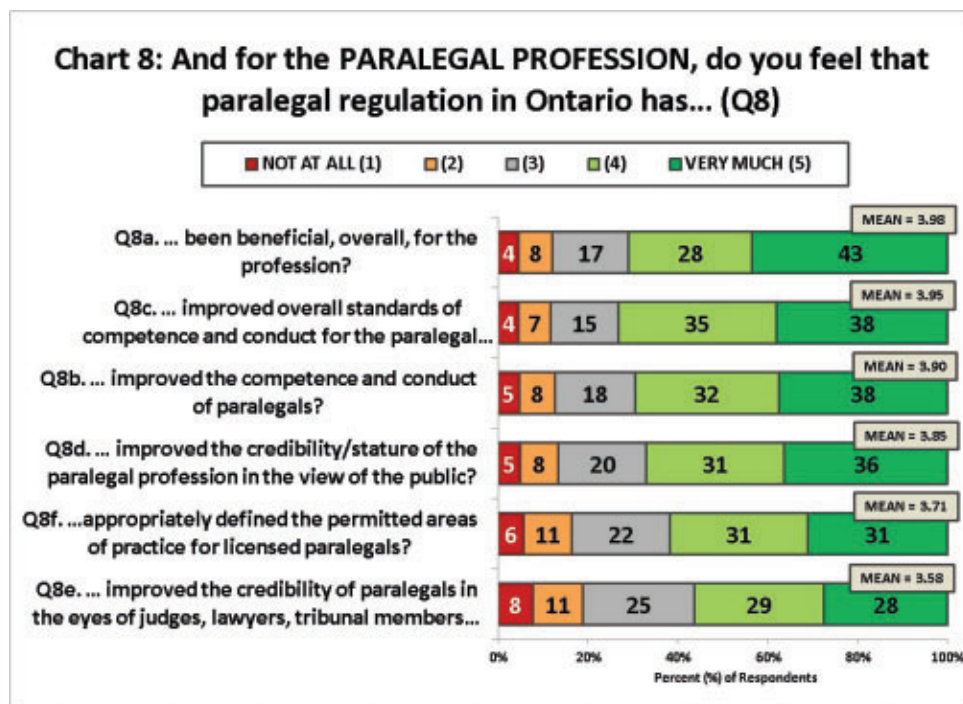
Although 71% of respondents viewed regulation, overall, as beneficial (44% very much, 27% somewhat) mean response and ratio of positive to negative responses was lower for all four more specific questions, notably three questions about access to legal services, information, and awareness of paralegal services. On the latter issue a bare majority of 51% agreed that regulation had contributed very much (26%) or somewhat (26%) to increased awareness, whereas 24% viewed it as contributing not at all (9%) or not very much (15%).



The qualified endorsement of the benefits of regulation in the areas of access to services, information and particularly public awareness, is consistent with the views of some key informants and focus group participants who suggested that regulation has yielded only limited improvements in these areas. As one key informant observed the public is not yet “aware of the changes that have taken place,” and, consequently, has yet to fully benefit from the regulation of paralegal services.

4.2.2 Impact of Regulation on Paralegals

Six questions explored paralegals’ opinions about the impact of regulation on the paralegal profession. Results shown in **Chart 8** indicate relatively broad agreement among survey respondents that paralegal regulation has had a positive impact on the profession. Notably, 71% of respondents (43% very much, 28% somewhat) felt regulation had been beneficial for the profession, 73% (38% very much, 35% somewhat) that regulation had improved overall standards of competence and conduct, and 70% (38% very much, 32% somewhat) that it had improved the competence and conduct of paralegals.



Interestingly, 62% (31% very much, 31% somewhat) endorsed the view that regulation had appropriately defined the permitted areas of practice compared to just 17% (6% not at all, 11% not much) who felt regulation had not appropriately defined permitted areas of practice. In some respects these results appear to be at variance with focus group findings, which suggested that a large proportion, perhaps a majority, viewed regulation as having unreasonably restricted the scope of practice for paralegals. Although scope of practice is clearly an important issue, it may not be a major concern for the majority of paralegals.

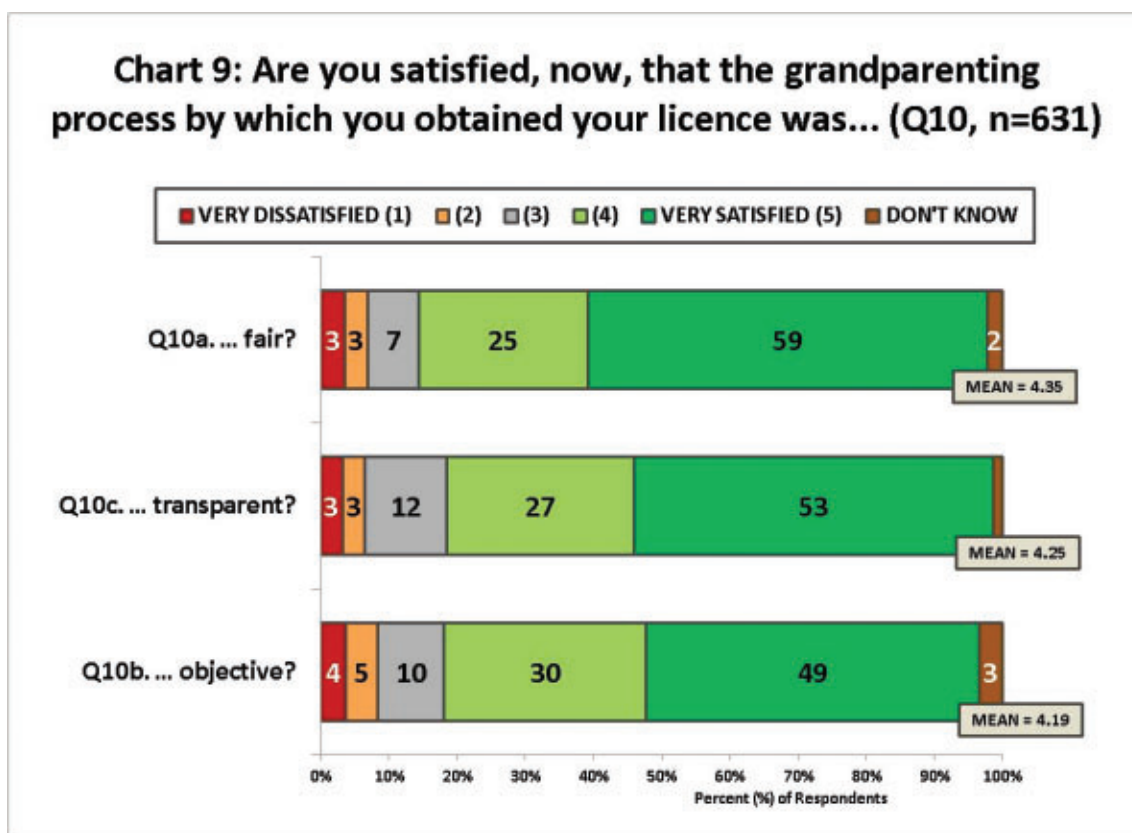
An open-ended question asked, 'Are there any other effects of paralegal regulation that you feel are important to note?' Among 420 responses, concern that regulation had imposed too limited a scope of practice for paralegals received the most mentions (17%). Other frequent mentions included concern that the cost of practising has increased due to membership fees associated with regulation (11%), that access to justice has been reduced for the lower income public (9%), and that unlicensed individuals continue to provide legal services (7%). These concerns all surfaced in focus group discussions.

4.3 Licensing

4.3.1 The Grandparenting Process

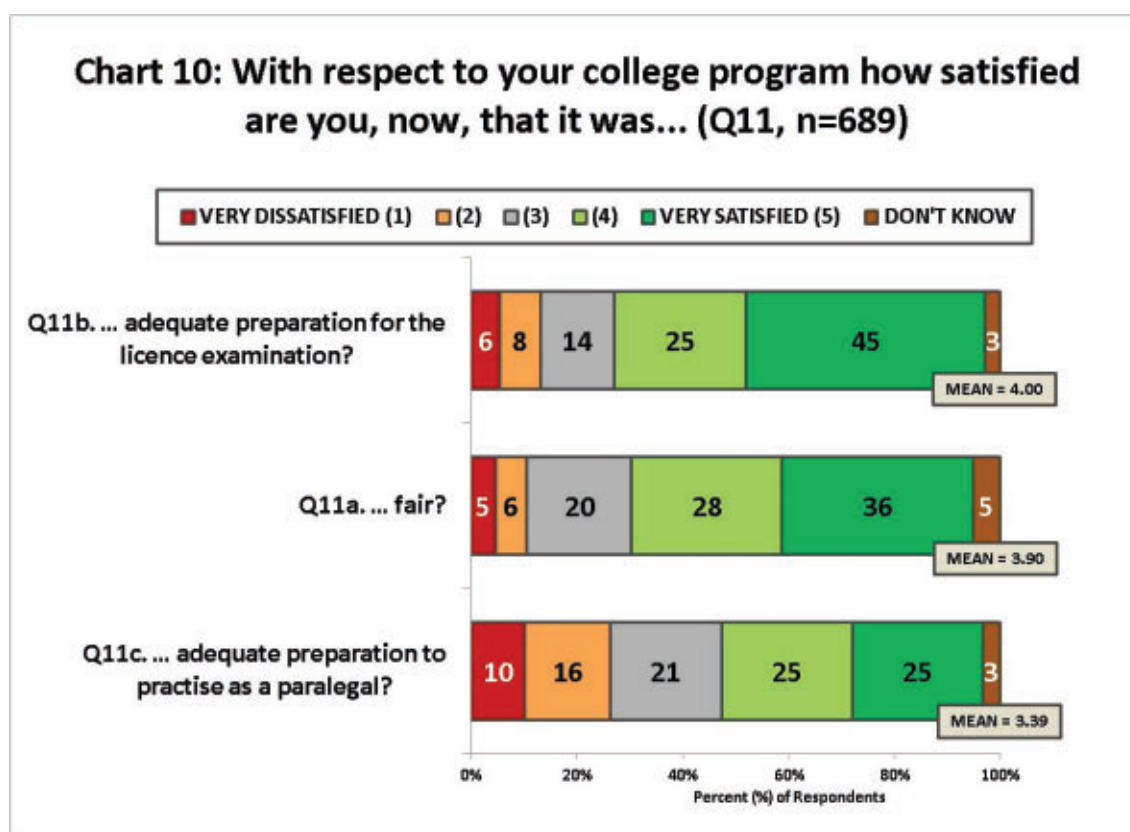
Paralegals who were licensed under the grandparenting provisions registered very high levels of satisfaction with the process. As **Chart 9** shows, 84% were satisfied the process was fair (59% very, 25% somewhat), 80% were satisfied that it was transparent (53% very, 27% somewhat), and 80% were satisfied that it was objective (49% very, 30% somewhat).

Satisfaction with the grandparenting process was also evident in key informant interviews and focus groups discussions, in which even paralegals who had initially opposed regulation acknowledged that the process had been fair.



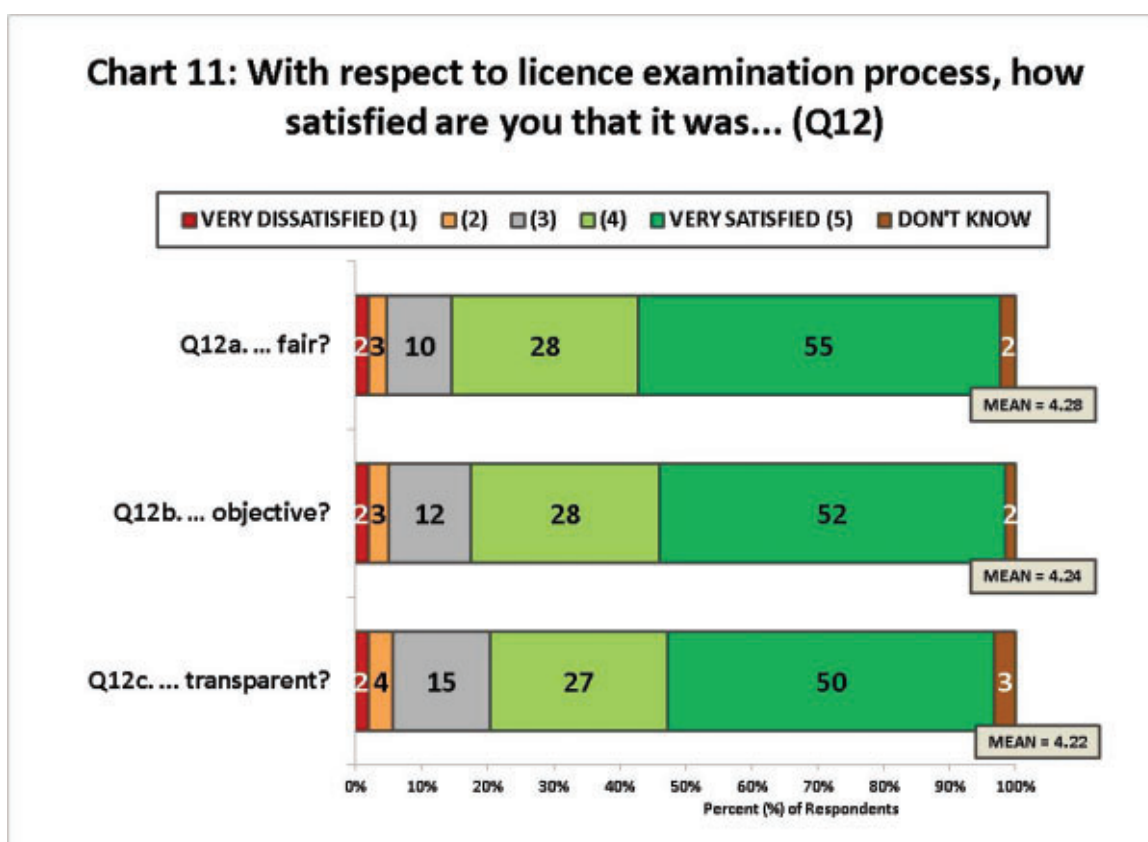
4.3.2 College Programs

Among paralegals who were not licensed through the grandparenting process, and who were therefore required to meet specified pre-licensing educational requirements, 70% were satisfied that their college program was adequate preparation for the licensing examination (45% very, 25% somewhat), and 64% were satisfied that the college program was fair (36% very, 28% somewhat). However, just 50% were satisfied (25% very, 25% somewhat) that their college program was adequate preparation to practise as a paralegal, compared to 21% who were neither satisfied nor dissatisfied, and 26% who were dissatisfied (10% very, 16% somewhat) for a mean response of just 3.39.



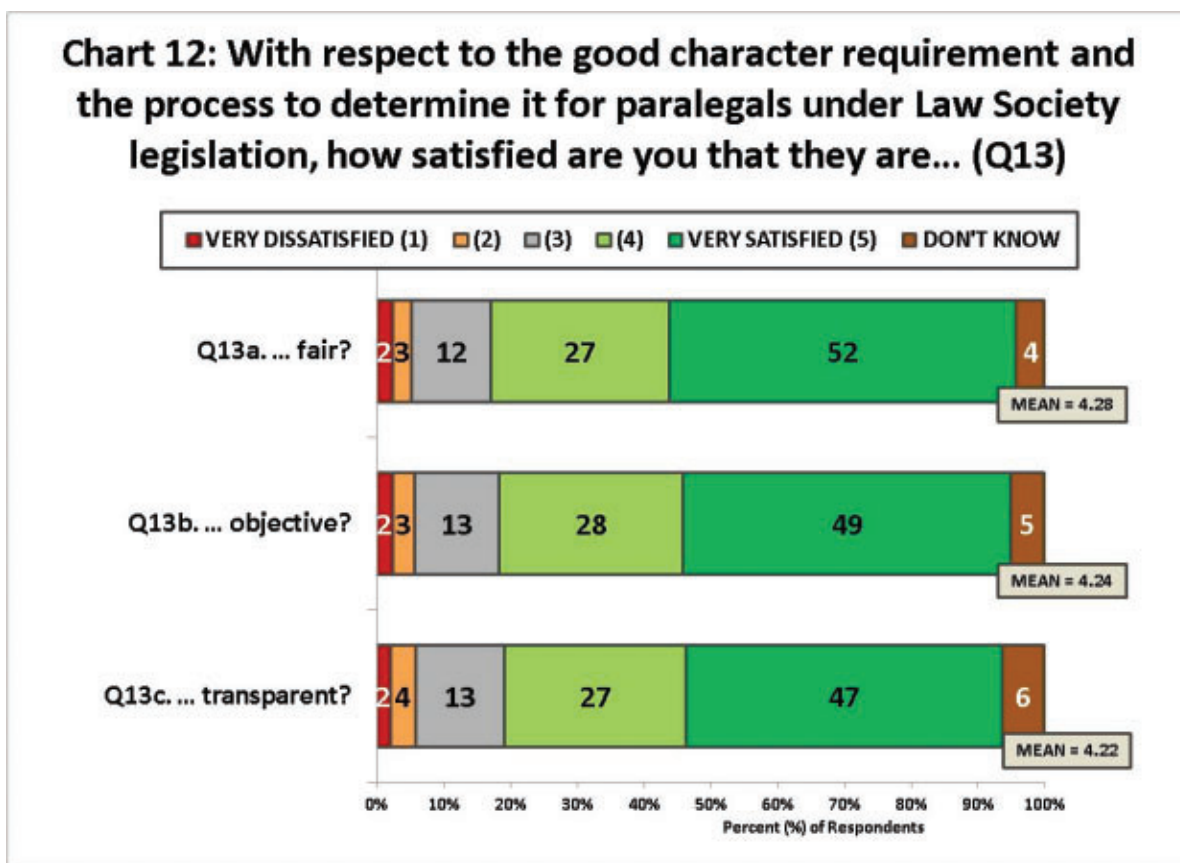
4.3.3 The Licensing Exam

As **Chart 11** shows, 84% of survey respondents were satisfied that the licensing examination was fair (55% very, 29% somewhat), 80% that it was objective (52% very, 28% somewhat), and 77% that the licensing examination process was transparent (50% very, 27% somewhat).



4.3.4 Good Character Requirement

Survey respondents also registered high levels of satisfaction with the good character requirement and process, with 79% satisfied that it was fair (52% very, 27% somewhat), 77% that it was objective (49% very, 28% somewhat) and 74% that it was transparent (47% very, 27% somewhat).



4.3.5 Additional Comments Regarding the Licensing Process

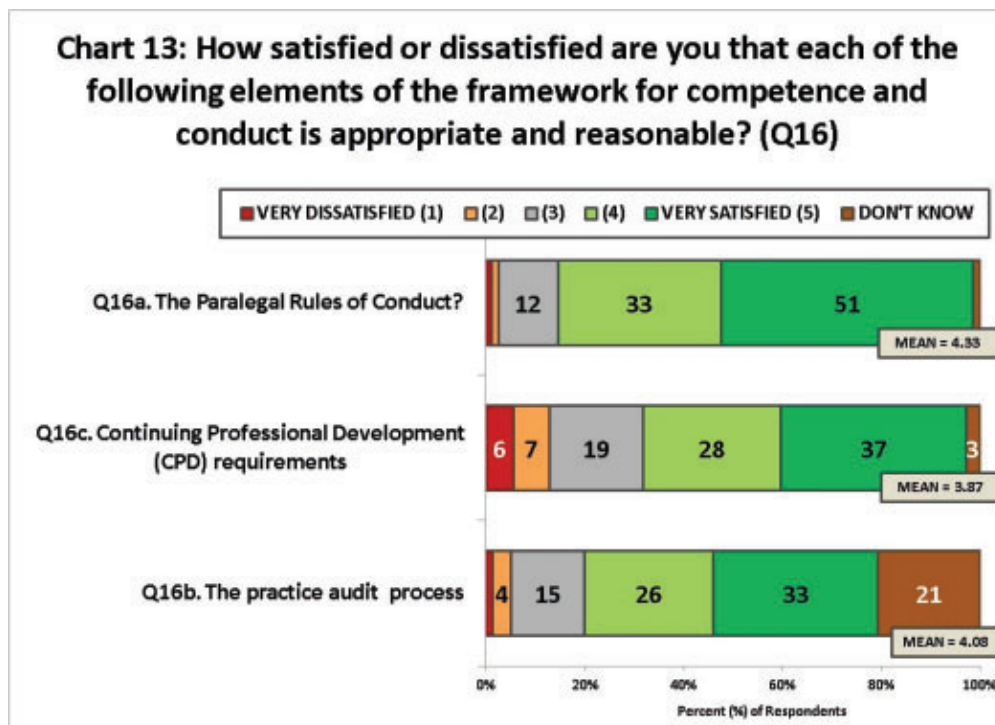
Respondents who had participated in the grandparenting process were asked, 'Do you have anything else you'd like to say about the grandparenting process, licensing exam or good character requirement?' Among those who answered the question (n=189 or 30% of grandparented respondents) the most frequently mentioned issues were: the good character requirement in the licensing process had been inefficient or lax (13%), the grandparenting,

licensing and good character requirements were thorough/satisfying (11%), and the licensing examination was too easy (7%). Another 6% described the licensing examination as unbalanced and/or lacking some elements, and 6% characterized the grandparenting process as not wholly effective or thorough.

Respondents who had not participated in the grandparenting process were asked, 'Do you have anything else you'd like to say about the college program, licensing exam, or good character requirements?' Those who answered the question (n=244 or 36% of non-grandparented respondents) generated a different list of concerns than their grandparented colleagues. In this group the most frequently mentioned issues were: the college program does not prepare students for real life practice (16%), mentoring/apprenticeship/articling should be longer (13%), training should be more hands on/less theoretical (11%), and training and education quality should improve (10%). Another 8% suggested training should be focused/specialized on the scope of practice, and 5% recommended that accreditation of courses/colleges should be more strict. This constellation of issues related to education and training also preoccupied focus group participants who offered various (and sometimes contradictory) recommendations for how the education and training of paralegals could be modified to more effectively prepare paralegals for 'real-life practice.'

4.4 Competence, Conduct and Discipline

All survey respondents were asked about satisfaction with the Paralegal Rules of Conduct, the Continuing Professional Development (CPD) requirements and the practice audit process. As **Chart 13** shows, 84% of respondents were satisfied (51% very, 33% somewhat) with the Paralegal Rules of Conduct, whereas just 3% were dissatisfied (1.3% very, 1.4% somewhat). This very high level of satisfaction was also evident in the focus group discussions where paralegals expressed enthusiasm for the importance and benefits of having the paralegal profession governed by standards of professional conduct consistent with the rules of conduct governing lawyers. As one focus group participant put it: “You have to have standards. If you have standards for lawyers you have to for paralegals too. [You] can’t have a lesser standard.”



With respect to CPD requirements 65% were satisfied (very 37%, somewhat 28%) and 13% were dissatisfied (6% very, 7% somewhat).

Regarding the practice audit process, 59% were satisfied (33% very, 26% somewhat) and just 5% were dissatisfied (1% very, 4% somewhat). An additional 21% of respondents answered

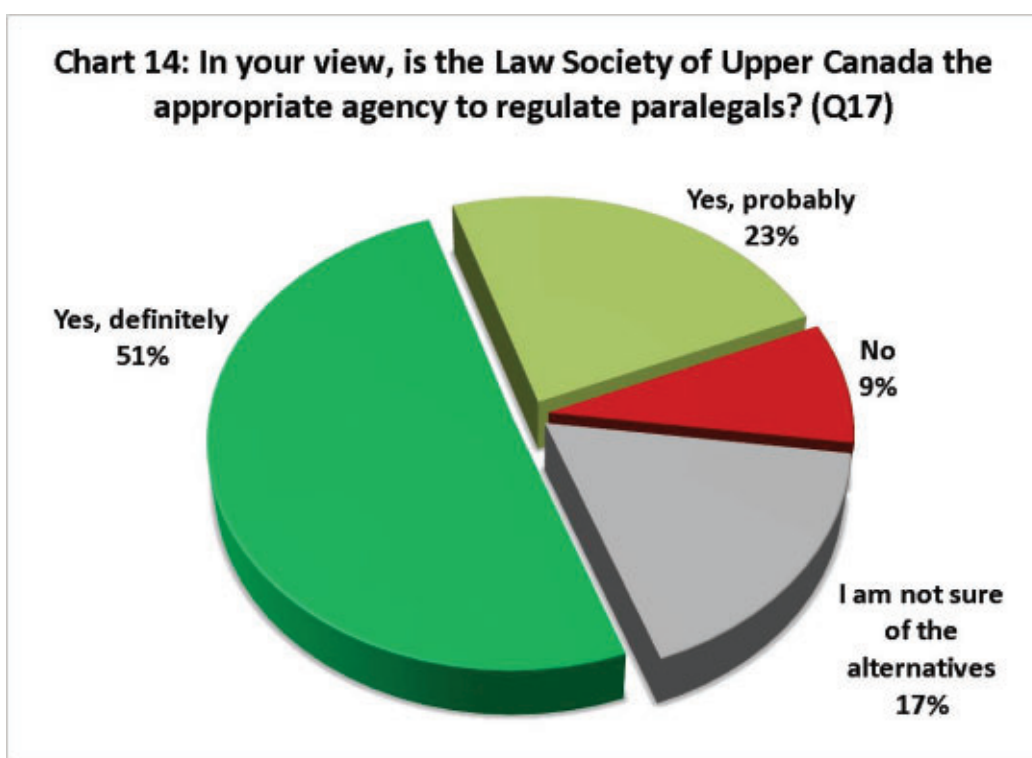
'don't know,' which may be explained by the fact that less than one-tenth of respondents reported having been audited. Interestingly, among the 9% of respondents (n=115) who reported having had direct experience with the practice audit process, satisfaction rose to 77% (47% very, 30% somewhat).

4.5 Governance and the Law Society as Regulator

4.5.1 The Law Society as Regulator

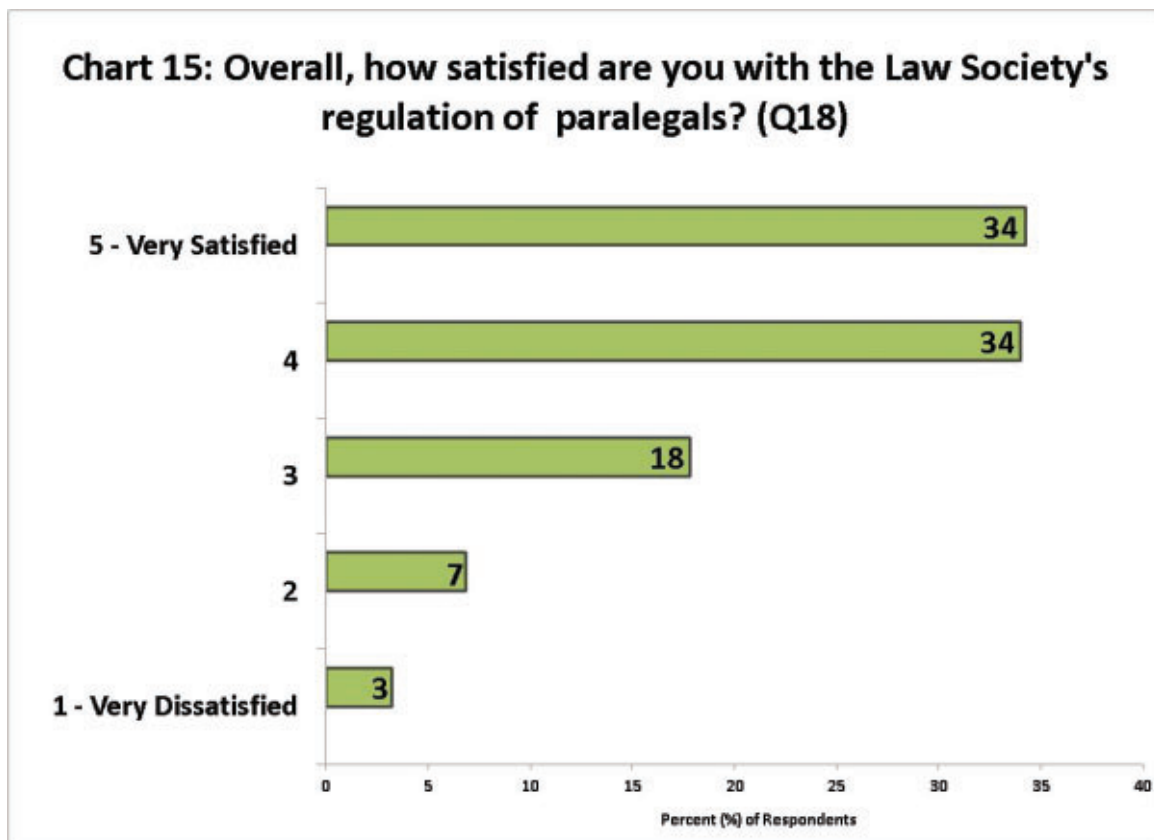
A majority of survey respondents (51%) viewed the Law Society as 'definitely' the appropriate choice of regulator, 23% viewed it as 'probably' the appropriate choice, 17% indicated they were 'not sure of the alternatives' and 9% answered 'no.'

Survey results shown in **Chart 14** are consistent with the results of key informant interviews and focus groups. In both cases a majority shared the view that the Law Society had proven to be the best choice to regulate paralegals.

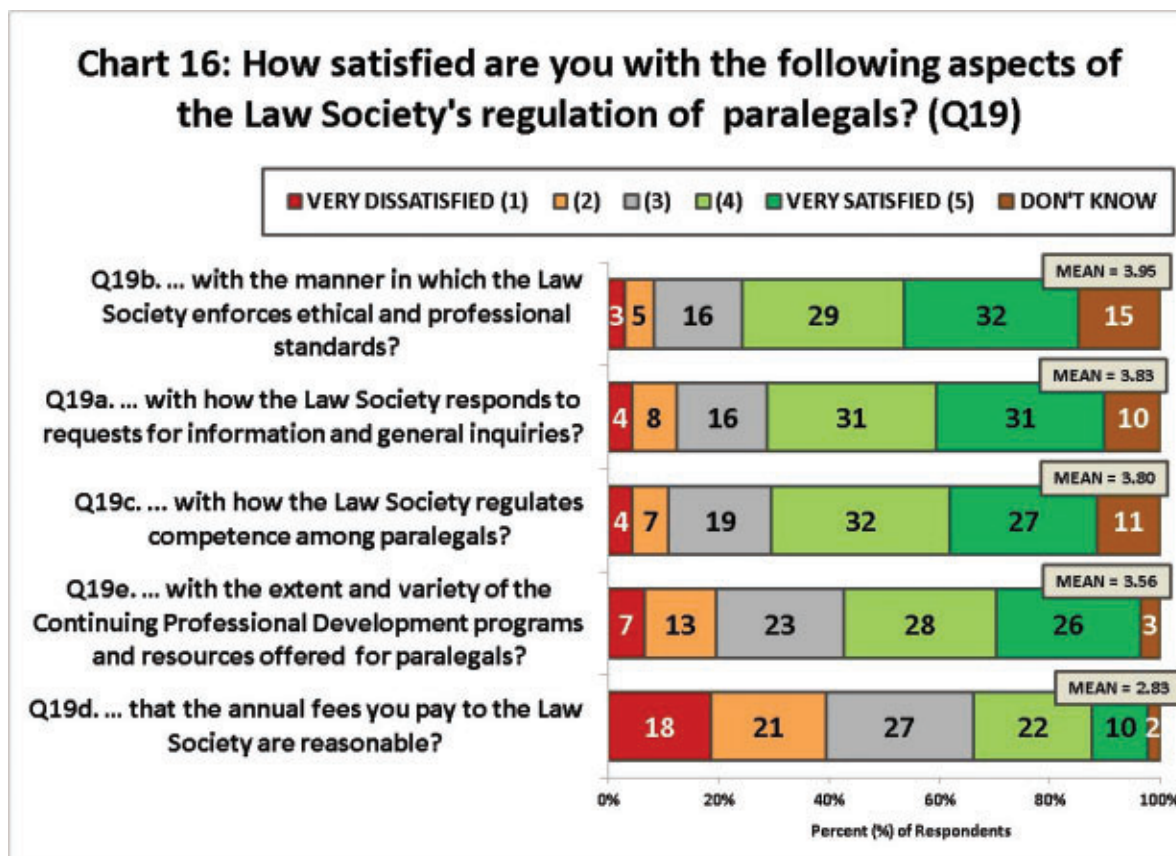


This included some paralegals who admitted to having been initially opposed to regulation by the Law Society. Whereas, some paralegals viewed alternatives to regulation by the Law Society as an option for the future, only a small proportion viewed the Law Society as an inappropriate choice in the past or for the present.

Sixty-eight percent of respondents indicated overall satisfaction with the Law Society's regulation (34% very, 34%), whereas 10% were, overall, dissatisfied (3% very, 7% somewhat) (Chart 15).



Asked about specific aspects of regulation, 62% of survey respondents were satisfied (31% very, 31% somewhat) with the how the Law Society responds to requests for information and general inquiries, 61% were satisfied (32% very, 29% somewhat) with the manner in which the Law Society enforces ethical and professional standards and 59% were satisfied (27% very, 32% somewhat) with how the Law Society regulates levels of competence among paralegals (Chart 16).



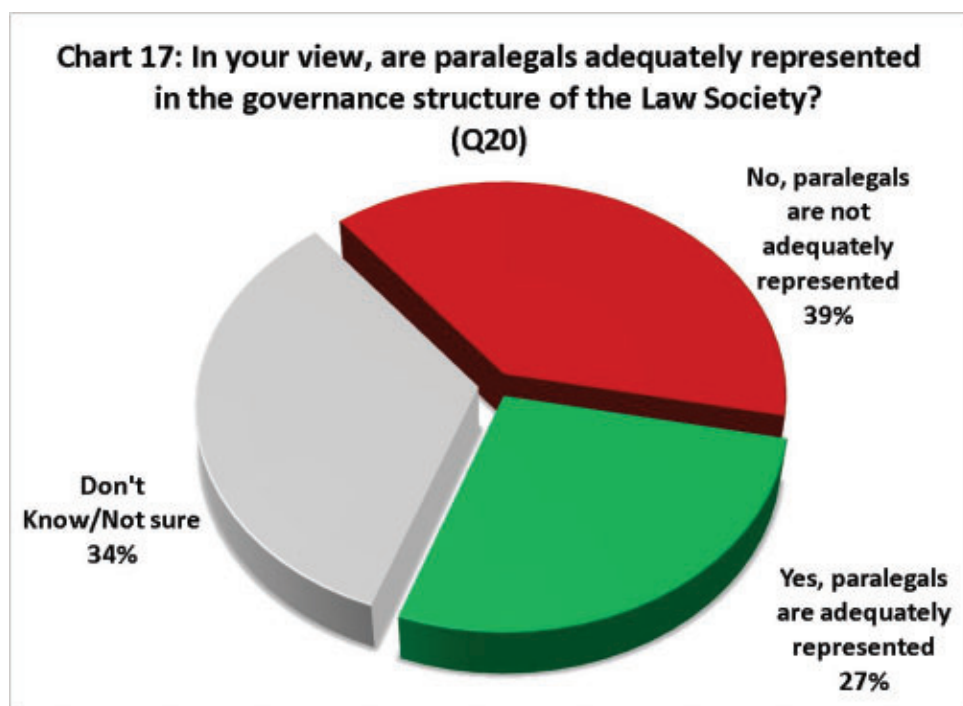
A narrow majority (54%) indicated they were satisfied (26% very, 28% somewhat) with the extent and variety of CPD programs, whereas 20% were dissatisfied (7% very, 13% somewhat). The comparatively low ratio of satisfaction to dissatisfaction and corresponding low mean response (3.56) on this question may reflect some differences in needs and expectations among paralegals. For example, in focus group discussions some experienced paralegals suggested that the course offerings were too limited and too introductory to meet their professional needs. One participant recommended “more in-depth courses,” that are more closely adapted to practical professional needs. On the other hand, some less experienced paralegals expressed enthusiasm for the CPD course offerings. One recently licensed paralegal commented: “I just got notice of upcoming courses for paralegals and I think it’s great. ‘Mediation for paralegals,’ that’s something I could use and learn more about.”

Just 32% of respondents were satisfied (10% very, 22% somewhat) that the annual fees they pay to the Law Society are reasonable, whereas 39% were dissatisfied with the annual fees (18% very, 21% somewhat). Response to this question generated the lowest mean response of any of the more than 30 statements tested on a five-point scale (mean=2.83). The issue of

annual fees was one of very few aspects of regulation tested in this survey where the negative response was stronger than the positive.

4.5.3 Governance

As **Chart 17** shows, 27% of respondents endorsed the view that paralegals are adequately represented in the governance structures of the Law Society, 39% that paralegals are not adequately represented, and 34% indicated they don't know or are unsure about the adequacy of paralegal representation.



Results shown in Chart 17 reinforce results of the key informant and focus group process. Although paralegals in both contexts emphasized the overall fairness of the Law Society's approach to regulation, they nevertheless took the view that paralegals should have stronger representation within the governance structure of the Law Society.

4.5.4 Further Comments on Law Society Regulation

A final open-ended question asked, 'In your view, what specific steps would make paralegal regulation by the Law Society more effective?' Of those who answered the question (n=470 or 36% of all respondents) the most frequently mentioned issues were: the Paralegal Standing Committee should be made up of mainly licensed paralegals/it is a conflict of interest for lawyers to regulate paralegals (32%), widen the scope of practice for paralegals (10%), help change the hierarchical relationship between paralegals and lawyers (9%), and toughen enforcement and eradicate illegal practices (7%). All of these themes surfaced in focus group discussions.

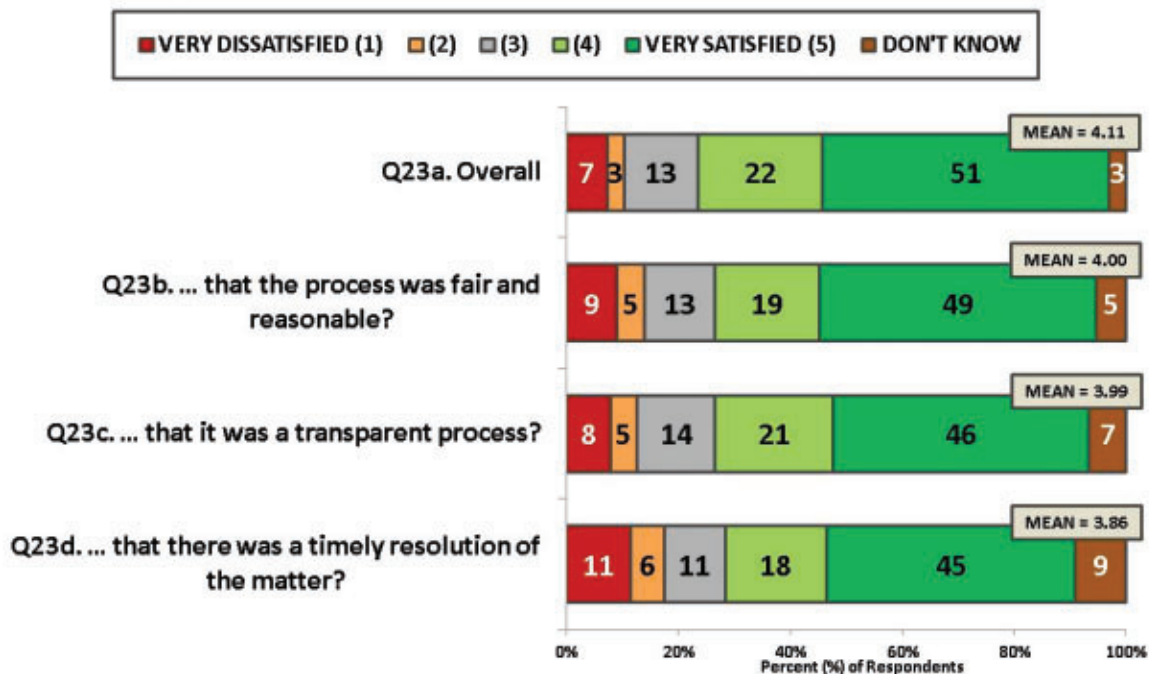
4.6 The Complaint Process

Chart 18 presents results of a bank of four questions which explored satisfaction with the complaint process among the 13% of survey respondents (n=166) who had been contacted by the Law Society regarding a complaint made against them.

Seventy-three percent of survey respondents reported overall satisfaction (51% very, 22% somewhat) with the way the Law Society had handled the complaint against them, 68% were satisfied the process was fair and reasonable (49% very, 19% somewhat), and 67% were satisfied that the process was transparent (46% very, 21% somewhat).

Sixty-three percent of respondents were satisfied with the timely resolution of the process (45% very, 18% somewhat), compared to 17% who were dissatisfied (11% very, 6% somewhat). As noted in the focus group report a few individuals had reported a very positive experience with the Law Society's complaint process, while also noting that the lengthy duration of the process contributed to the stress of the experience.

Chart 18: How satisfied are you with the way the Law Society handled the complaint against you: (Q23, n=166)



5.0 Users of Paralegal Services: The Experience of Regulation

5.1 Survey Respondents: Some Demographic Characteristics

The Ontario-wide sample of 1,001 included 28% of respondents from Toronto, 29% from the GTA outside Toronto, 40% from Central and Southern Ontario, and 3% from Northern Ontario.

Survey respondents were comprised of 38% women and 62% men, including 38% under 35, 26% who were 35 to 49, 26% who were 50 to 65, and 7% over 65 years of age.

Fifty-six percent of respondents reported they are employed full-time, 8% are employed part-time and 13% own a business or are self-employed. Others reported they were not currently employed (8%), students (5%), or retired (10%).

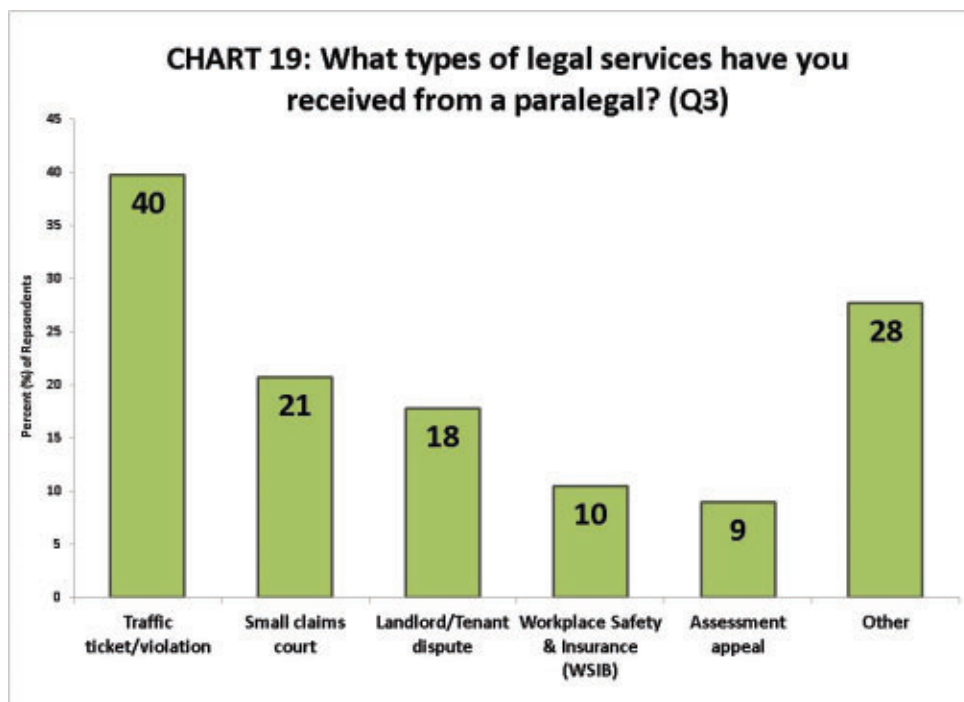
Twenty-five percent reported an annual household income of more than \$100k, 17% reported \$80-100K, 19% reported \$60-80K and \$40-60K, and 20% reported an income of less than \$40k.

5.2 Contact with Paralegal Services

5.2.1 Reasons for Choosing Paralegal Services

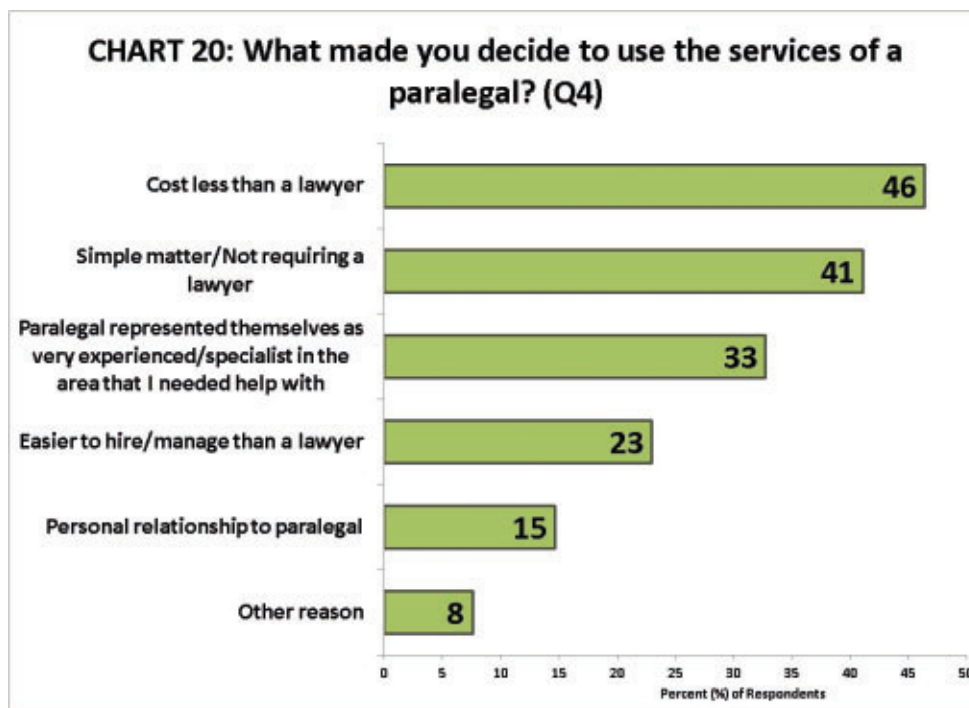
Survey participants were drawn from an online panel which included 57% who reported having used paralegal services on one occasion, 35% who used paralegals on two to four occasions, and 8% who had used paralegals services on five or more occasions during the past two years.

Respondents listed traffic ticket/traffic violation (40%), Small Claims Court (21%), landlord/tenant disputes (18%), and Workplace Safety and Insurance Board (10%) among the most frequently used types of legal services they had received from paralegals (**Chart 19**).



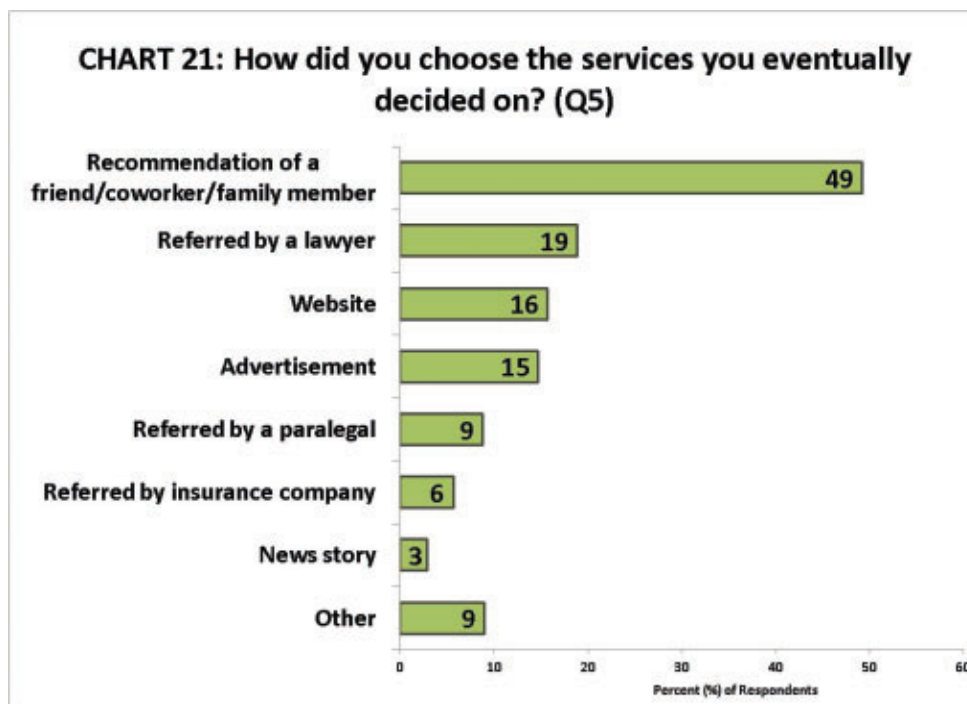
Of the 28% of respondents (n=277) who included ‘other mentions’ on the list of legal services they had received from a paralegal, the most frequently mentioned services received included: buying /selling a house/property/ real estate (19%), advice for estate/will/testament/paperwork (19%), family/family court/family law (6%) and advice/assistance for divorce/separation (6%).

Lower cost was cited by 46% of survey respondents among the reasons they had decided to use the services of a paralegal (**Chart 20**). This was followed by: simple matter /not requiring a lawyer (41%), the perception that the paralegal selected had the right experience or specialization required (33%), that it was easier to hire/manage a paralegal than a lawyer (23%), and that the respondent had a personal relationship with the paralegal (15%).



Among the 8% of respondents (n=76) who indicated other reasons for using the services of a paralegal the most frequent mention was that the paralegal was working as an assistant with/for the respondent's lawyer (n=20).

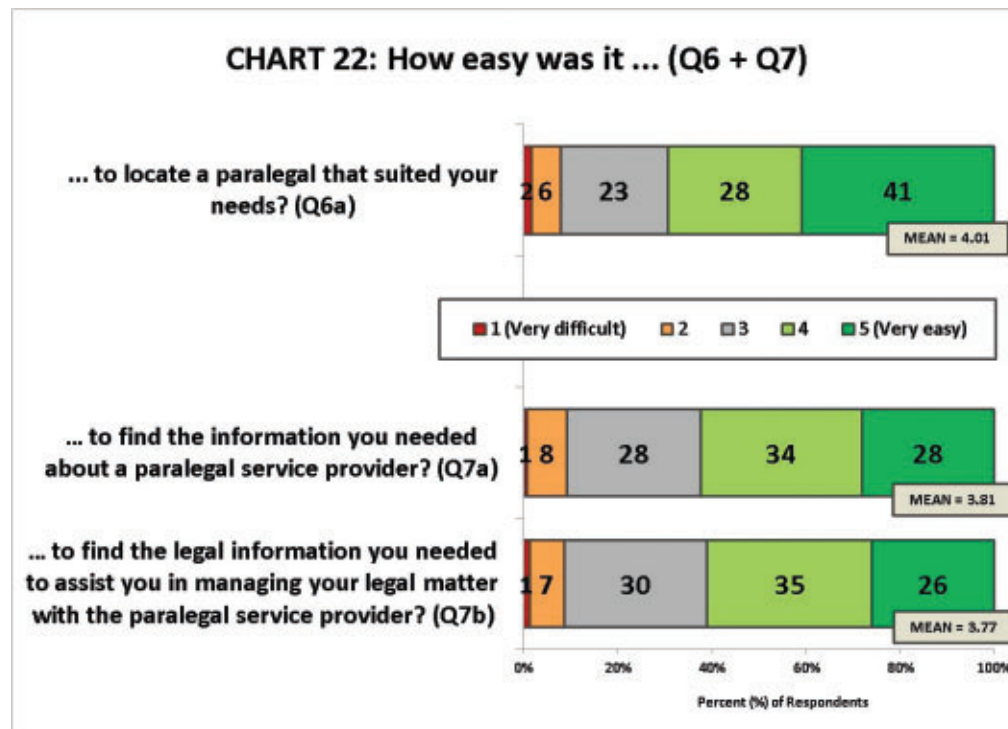
When asked, 'How did you choose the services you eventually decided on?' 49% of respondents cited recommendations from friends, coworkers or family. This was followed by: referral from a lawyer (19%), website (16%), advertisement (15%), referral by a paralegal (9%), referral by an insurance company (6%) and news story (3%). Among the 9% of respondents (n=91) who answered 'other' 25% reported employed a paralegal who was a friend or an acquaintance.



These results reinforce the findings of focus group research, which suggested the search for paralegal services is often informal, based on information or advice provided by family, friends and associates. In focus group discussion some participants described informal referrals leading to appropriate and satisfactory legal services, while others described a more complicated process leading to less satisfactory outcomes. For example, one Toronto participant described two experiences of relying on friends for legal services related to separation and divorce, only to learn after the fact that the legal services provided may not have been within the legal scope of practice for paralegals.

5.2.2 Finding Paralegal Services and Information

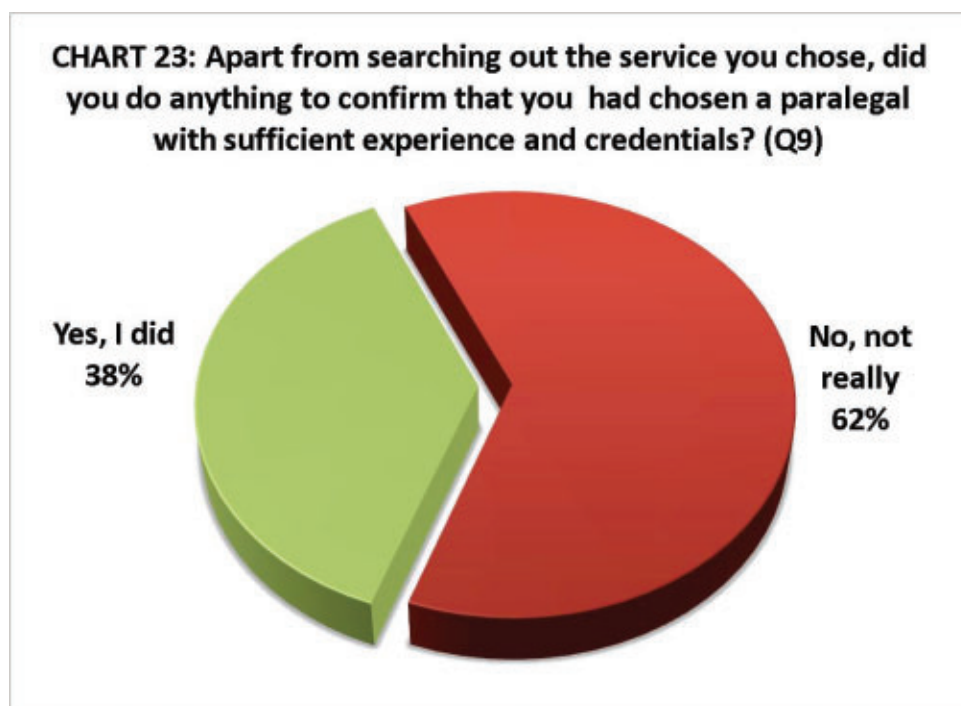
Two questions explored the experience of respondents in locating a paralegal that suited their needs and finding information related to using paralegal services. As **Chart 22** shows, 69% of respondents found it easy (41% very, 28% somewhat) to locate the paralegal that suited their needs, 62% found it easy (28% very, 34% somewhat) to find the information they needed about a paralegal service provider, and 61% found it easy (26% very, 35% somewhat) to find the information needed to manage their legal matter with the paralegal service provider.



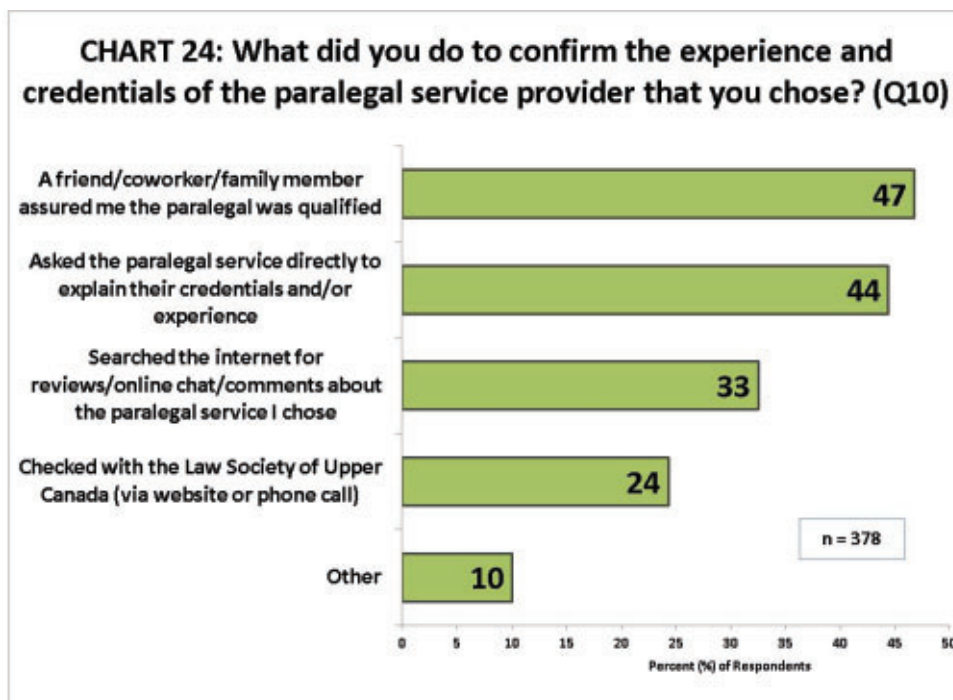
Two open-ended questions explored respondents' use of the internet to find paralegal services and related information. The first question asked, 'Which internet resources have you used to find a paralegal?' Over 1,000 individual responses were coded and grouped in 52 categories, over 30 of which referred to general or specific internet resources. Apart from Google Search, mentioned by 34% of respondents, other search engines or specific sites received only a handful of mentions, including 12 mentions of the Law Society (1.2%) and 7 mentions of the Paralegal Society of Ontario (0.7%). These results suggest that although survey respondents are using the internet to seek paralegals, that search is largely random and most individuals may be unaware of specialized sources of information or advice.

A second open-ended question which asked, 'What internet resources have you used to find information that helped manage your relationship with the paralegal service provider?' yielded similar results. In addition to Google Search (22%), more than two dozen other search engines or specific sites each received only a handful of mentions, including the Law Society (5 mentions or 0.5%) and the Paralegal Society of Ontario (4 mentions or 0.4%). Here again, results suggest that survey respondents may be using the internet to seek relevant legal information but may not be having much success in finding the information they are seeking.

Asked if they had done anything to confirm that they had chosen a paralegal with sufficient experience and credentials, 38% of respondents answered 'yes' and 62% answered 'no, not really' (**Chart 23**).



Among the 38% of respondents (n=378) who took specific steps to confirm their choice of paralegal service, 47% sought assurance from a friend, coworker or family member, 44% asked the paralegal service directly to explain their credentials/experience, 33% searched the internet for reviews, comments or online chat about the services they had chosen, and 24% checked with the Law Society (**Chart 24**). Among the 10% of respondents who specified other (n=39), 'checked with my lawyer' was the most frequently mentioned source (n=8).

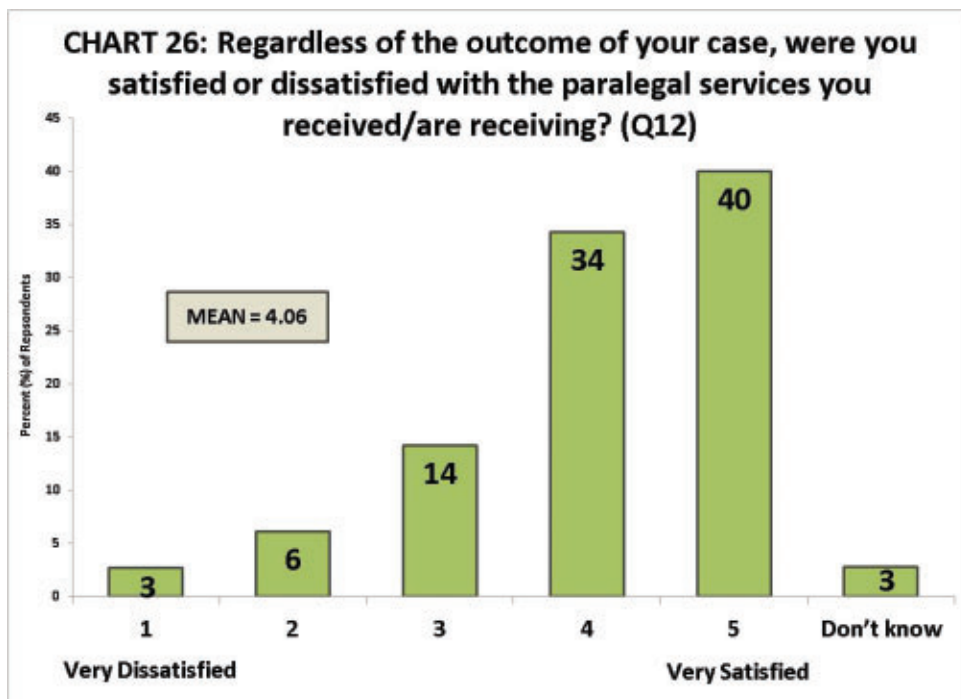
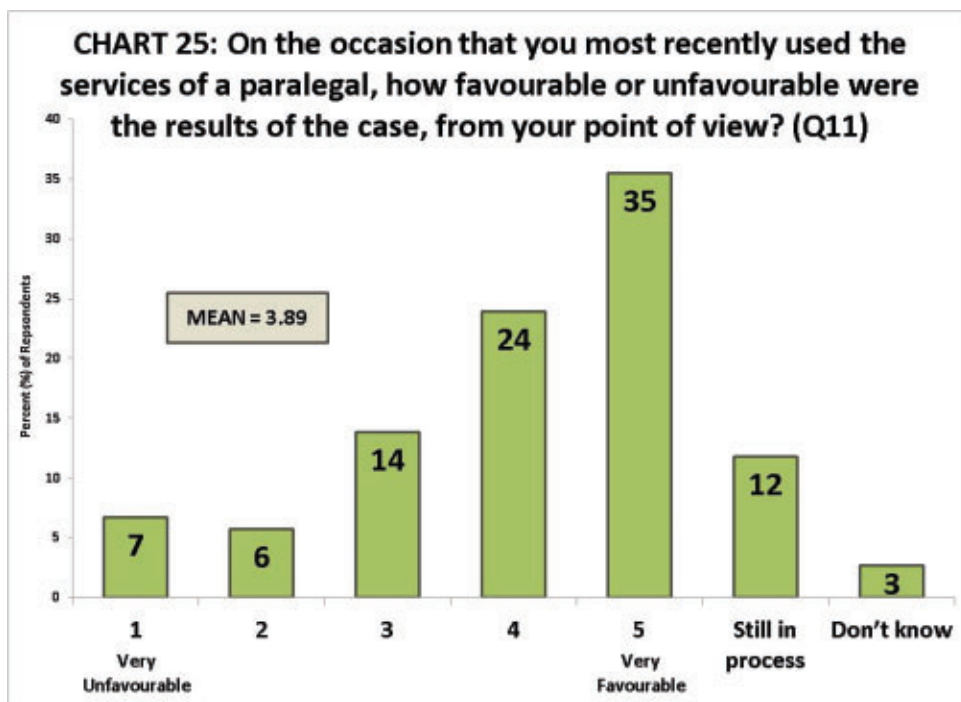


5.3 The Experience of Using Paralegal Services

5.3.1 Satisfaction with Paralegal Services

Asked about the outcome of their legal case when they had last used paralegal services, 59% of respondents reported a favourable outcome (35% very, 24% somewhat) and 13% reported an unfavourable outcome (7% very, 6% somewhat). A further 14% reported the outcome was neither favourable nor unfavourable, and 12% indicated it was 'still in process' (**Chart 25**).

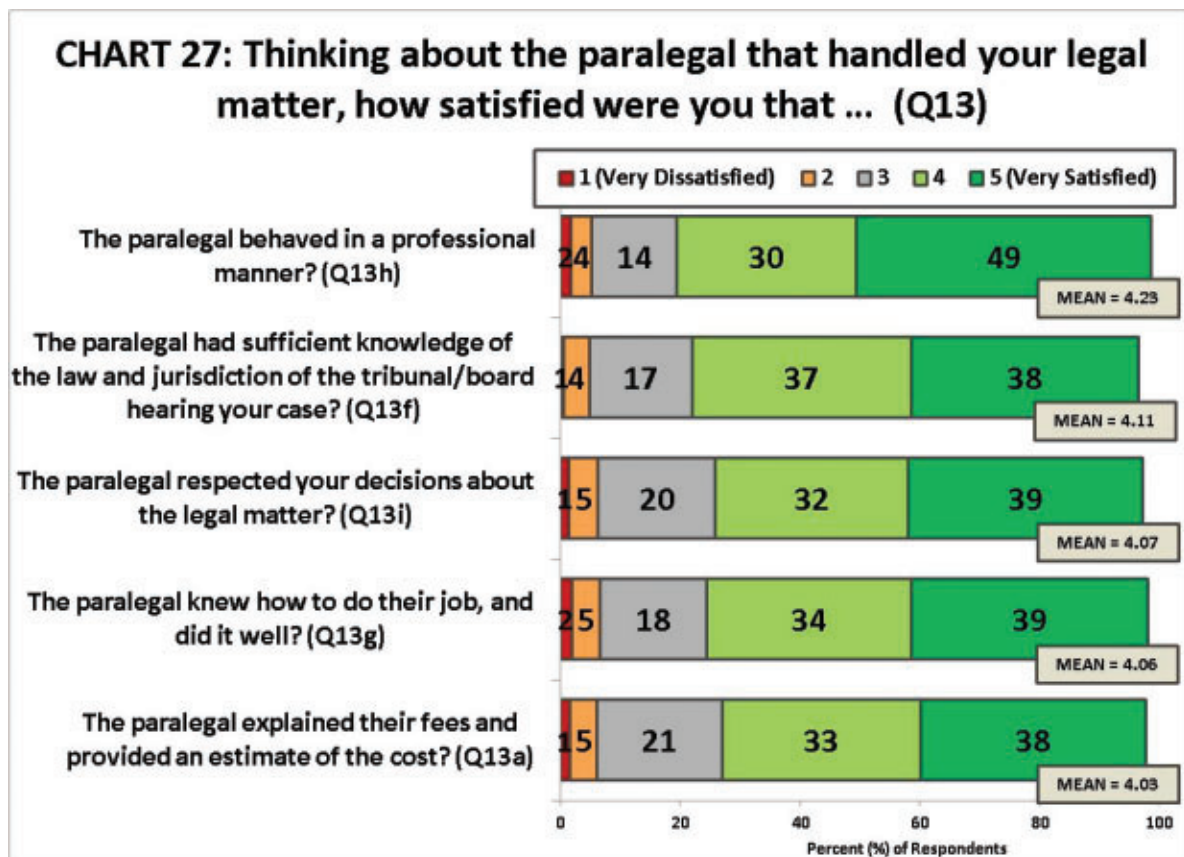
A follow-up question explored satisfaction with paralegal services 'regardless of the outcome of your case.' As **Chart 26** shows, 74% of respondents reported being satisfied (40% very, 34% somewhat) and just 9% reported being dissatisfied (3% very, 6% somewhat).



Results shown in Chart 26, notably the high ratio of overall satisfaction to dissatisfaction (roughly 8:1) confirmed the conclusions from the focus groups, which suggested there is substantial overall satisfaction with paralegal services in Ontario.

Nine questions explored respondents' satisfaction with aspects of the paralegal services they used, and the results are reported in the two charts that follow.

Chart 27 presents results of the five questions that generated the highest levels of satisfaction. As it shows, more than seven-tenths of respondents were satisfied and less than one-tenth dissatisfied with five aspects of paralegal services. At the top of this list of issues 79% were satisfied (49% very, 30% somewhat) that their paralegal behaved in a professional manner, 75% were satisfied (38% very, 37%) that their paralegal had sufficient knowledge of the law and jurisdiction of the tribunal/board hearing their case. A strong majority were also satisfied that the paralegal had respected their decisions about their legal matter (69%), knew how to do their job and did it well (73%), and explained their fees and provided an estimate of the cost (71%).



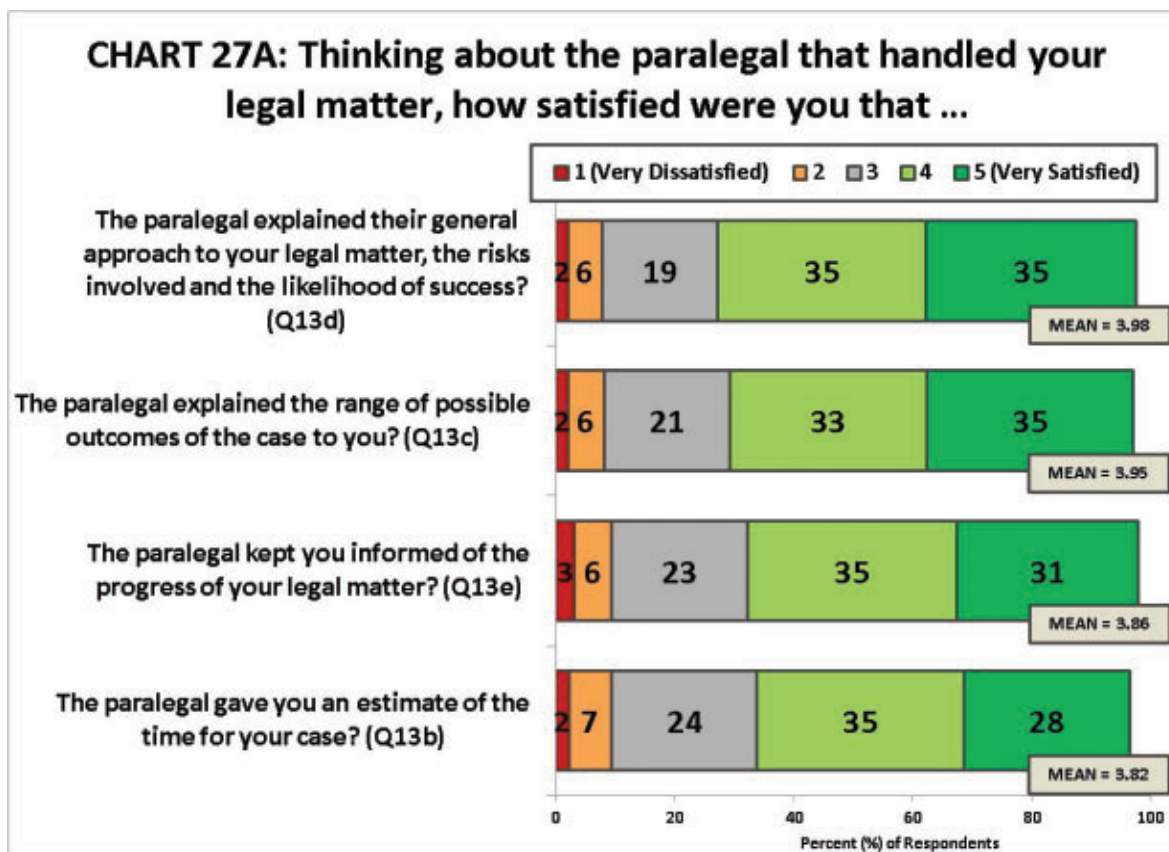


Chart 27a presents the remaining results from the bank of nine questions. Seventy percent of respondents were satisfied (35% very, 35% somewhat) that their paralegal had explained his/her general approach to their legal matter, 68% were satisfied (35% very, 33% somewhat) that their paralegal had explained the range of possible outcomes in their case, 66% were satisfied (31% very, 35% somewhat) that their paralegal had kept them informed of the progress of their legal matter, and 63% were satisfied (28% very, 35% somewhat) that their paralegal had given them an accurate estimate of time for the case. Less than one-tenth of respondents indicated dissatisfaction with their paralegal's performance in any of these areas.

Consistent with comparatively high levels of overall satisfaction with the paralegal services they had received, 68% of survey respondents rated those services as very good value (32%) or good value (36%) for the fees charged, whereas just 8% characterized the services they had received as very poor value (3%) or poor value (5%) for the fees charged.

CHART 28: Overall, when you most recently used paralegal services, was it good value or poor value for the fees charged? (Q14)

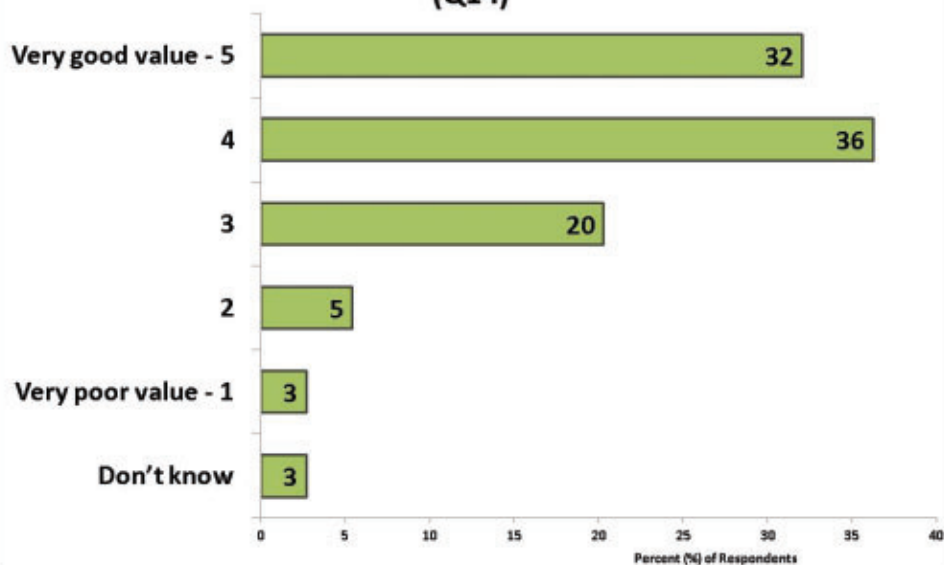
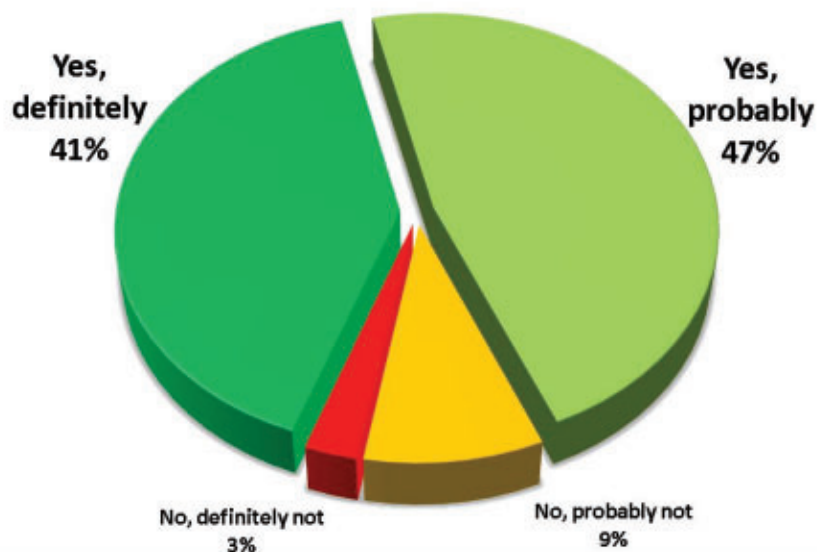


CHART 29: Would you use similar paralegal services again, if you encounter a similar situation? (Q15)



Asked if they would use similar paralegal services again in a similar situation, 88% of survey respondents indicated they would definitely (47%) or probably (41%) do so, whereas 12% indicated they would definitely not (3%) or probably not (9%) use similar services again (**Chart 29**).

Respondents who indicated they would not use similar paralegal services in the future (n=120) were asked 'Why do you say that?' Most frequent mentions were cost (11%), paralegal did not do their job well/properly (10%), could have done it myself/gone to court myself (9%) and poor customer service (9%). Other responses were related to complaints about poor communication, professional performance and the competence of the paralegal.

5.3.2 Awareness and Use of the Complaint Process

A majority of survey respondents (55%) indicated they were aware that they could make a formal complaint to the Law Society if they had a concern about the paralegal services they received, and 31% indicated they were also aware of how the complaint process works (**Chart 30**).

Chart 31 shows that 80% of all survey respondents indicated they had no specific concerns with the paralegal services they had used and hence no reason to consider making a formal complaint, 11% indicated they had some concerns but did not consider making a complaint, and 5% considered making a complaint but did not follow through. Among those who initiated a complaint, 2% (n=15) reported having made a complaint and completed the process, 1% (n=6) had made a complaint and were still involved in the unfinished complaints procedure, and 1% (n=12) had made a complaint but had not completed the process (n=12).

CHART 30 : Are you aware of the complaint process and how it works? (Q16b, Q17)

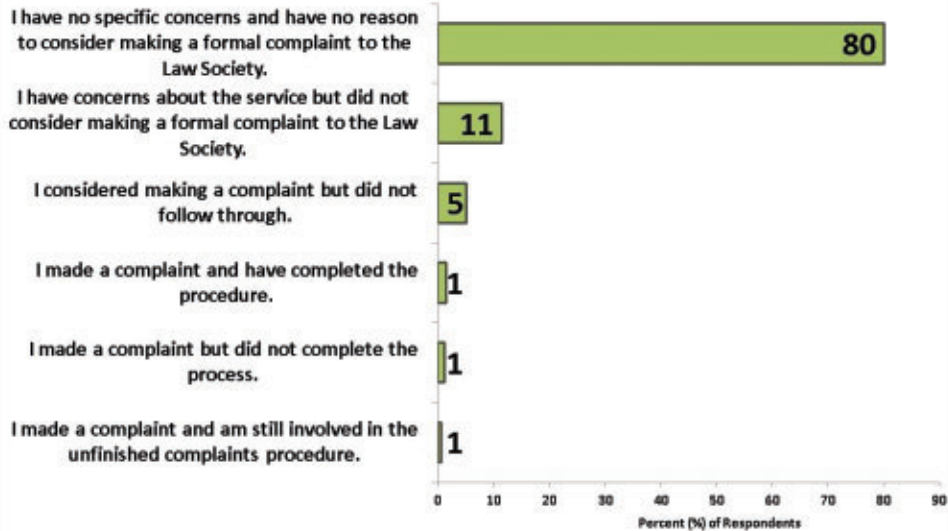
Q16b. Are you aware that you could make a formal complaint to the Law Society in case you have a concern about the paralegal's services you receive?



Q17. Are you aware of how the complaint process works?



CHART 31: As a result of your most recent use of paralegal services, please choose one of the following statements (Q18):

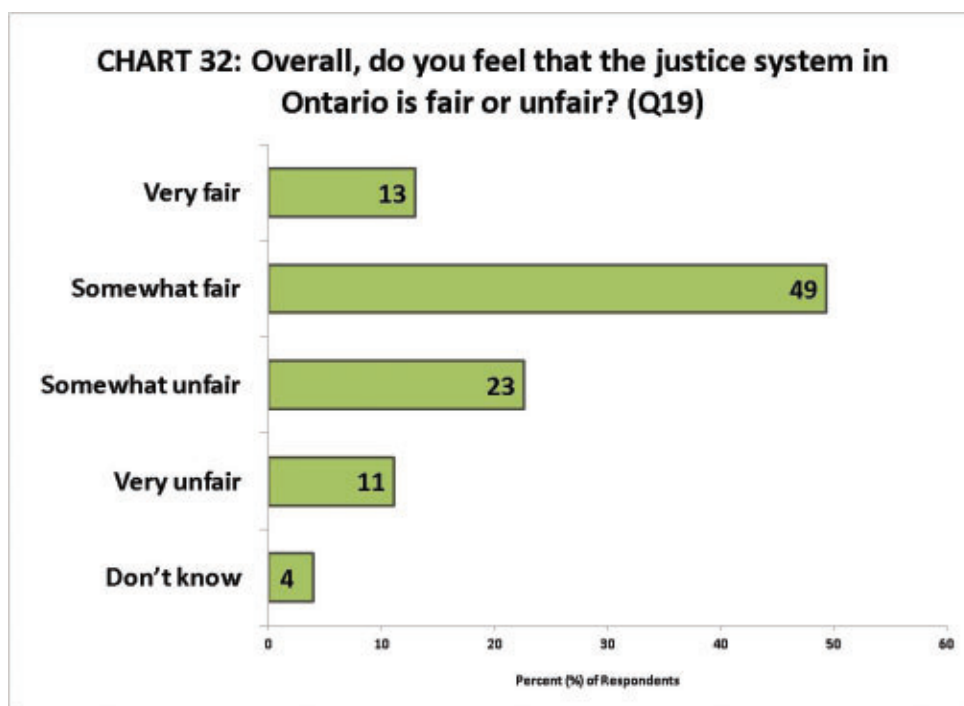


5.4 The Impact of Paralegal Regulation

5.4.1 Paralegal Regulation and the Justice System

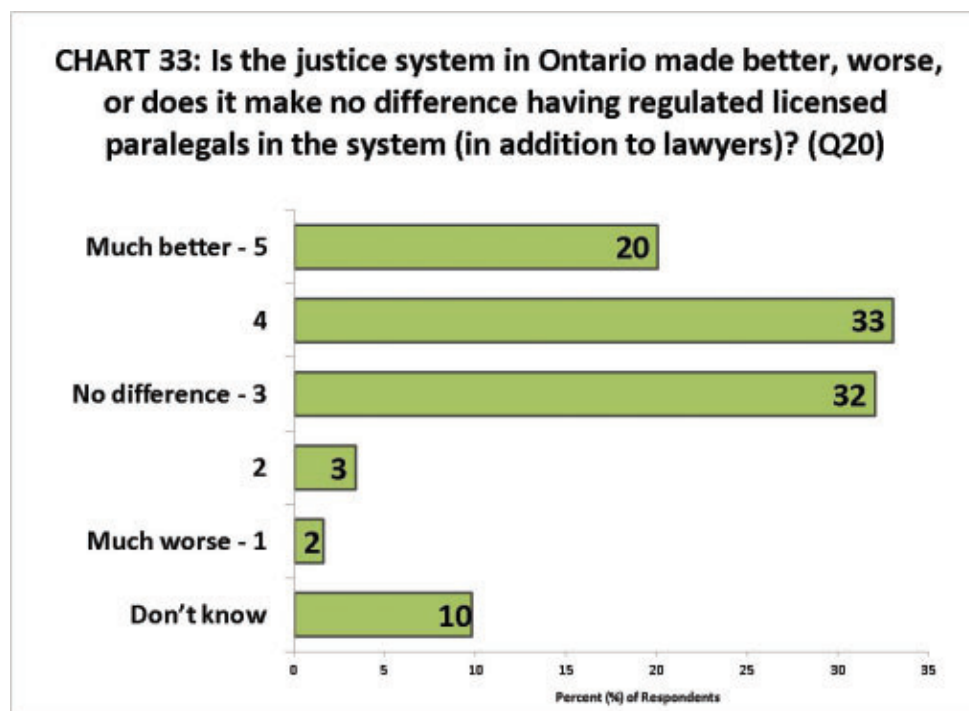
Asked if Ontario's system of justice is fair or unfair 62% of survey respondents described it as very fair (13%) or somewhat fair (49%), whereas 33% described it as very unfair (11%) or somewhat unfair (23%).

As **Chart 32** illustrates, respondents were most likely to opt for a qualified positive or negative response with almost three-quarters choosing the somewhat fair/somewhat unfair response option. The distribution of opinion was similar in the focus group discussions, where only a handful of participants would unequivocally characterize the justice system as either fair or unfair. Echoing many comments that focused on the complexity of the legal system, one participant commented: "I think the legal system is too complicated. It seems to me that you should be able to streamline the process. Forget the law; it just seems the whole process is so complicated."



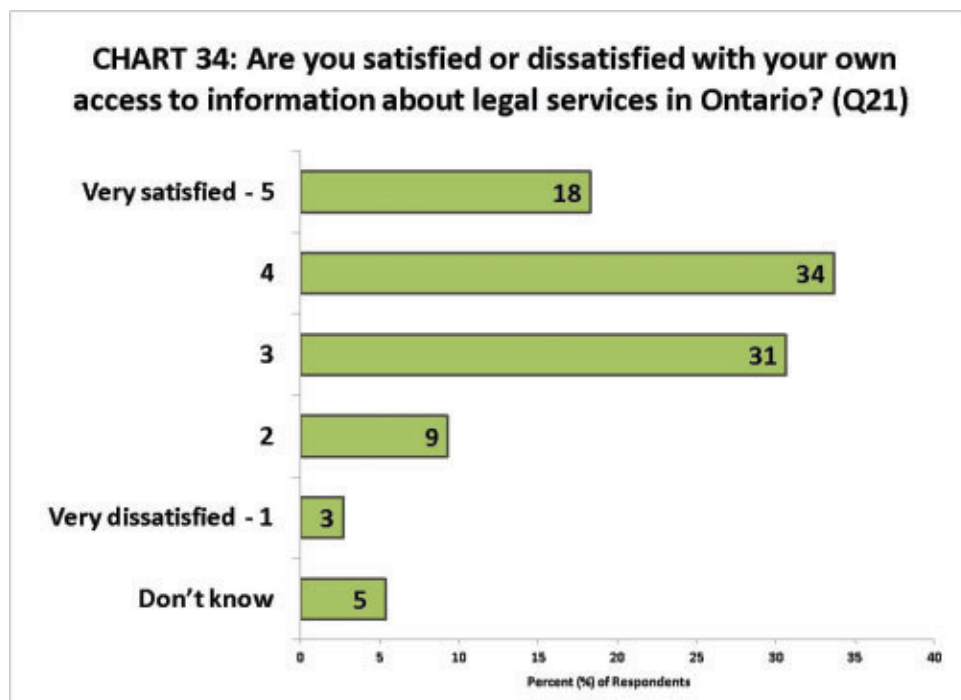
Survey respondents were equivocal on the issue of whether the justice system was improved as a result of having regulated licensed paralegals. Fifty-three percent agreed that regulation made the justice system much better (20%) or somewhat better (33%). But just 5% indicated

that regulation made the justice system much worse (2%) or somewhat worse (3%), 32% opted for neither worse nor better and 10% didn't know.



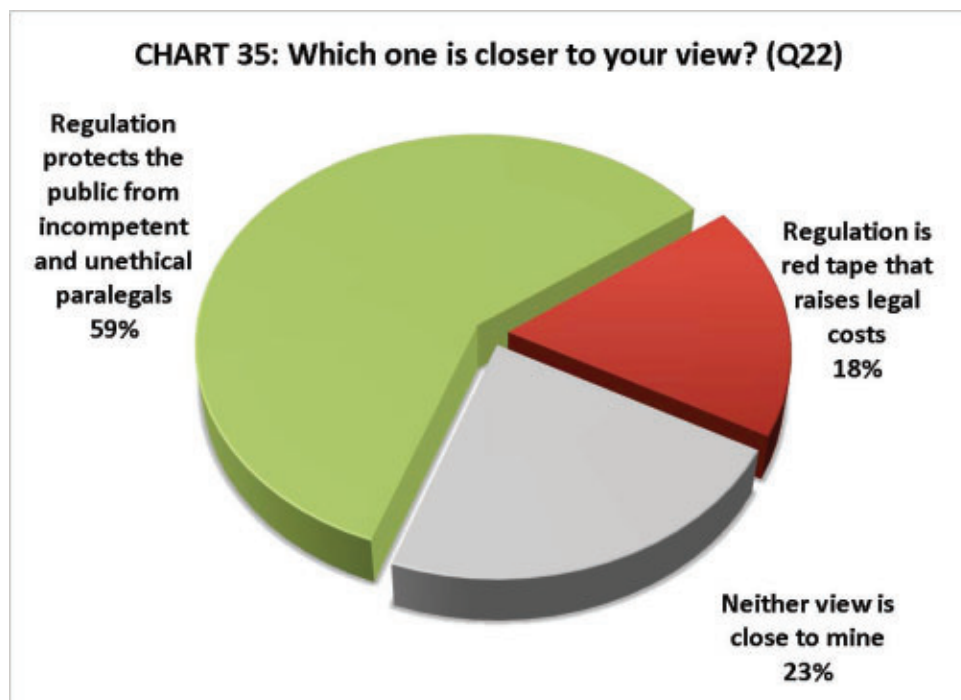
In line with these results, some focus group participants expressed doubts about whether and to what extent paralegal regulation had improved the legal system in Ontario. However, a larger number viewed paralegal regulation as beneficial to the justice system in Ontario; helping to “speed up the system,” reducing the cost of legal services, and making greater comfort and support available for individuals dealing with complicated matters. Commented one participant: “I think having the services of paralegals really levels the playing field.”

As **Chart 34** shows, 52% of respondents were very satisfied (18%) or somewhat satisfied (34%) with their access to information about legal services in Ontario. Although just 12% indicated they were somewhat (9%) or very (3%) dissatisfied a further 31%, almost one-third of respondents, indicated they were neither satisfied nor dissatisfied. This comparatively low level of satisfaction with access to information would appear to be further confirmation that many individuals who use paralegal services are neither confident about where to go for information about legal services nor satisfied with the information they have managed to find.



5.4.2 Benefits of Paralegal Regulation

Asked which of two statements was closer to their view, 59% of survey respondents endorsed the view that regulation protects the public from incompetent and unethical paralegals, whereas 18% endorsed the view that regulation contributes to bureaucracy, and 23% indicated that 'neither view is close to mine.' Opposition to regulation on the grounds it would impose unnecessary bureaucracy and raise costs was also voiced by some focus group participants, a few of whom suggested that market mechanisms and consumer demand would more effectively regulate the provision of legal services. More typically, focus group participants shared the view of many paralegals that regulation is a necessary and obvious step in regulating the paralegal profession and establishing higher standards of consumer protection.



Asked about the impact of regulation on the competence and professional standards of paralegals, 51% indicated that regulation made the profession much more (18%) or somewhat more (33%) professional. Whereas only 5% of respondents believed regulation had a negative effective on the competence and professionalism of paralegals, 44% offered a neutral response (27% no difference, 17% don't know).

The distribution in **Chart 36** is similar to the pattern of response to several general questions which asked respondents for their opinion about the impact of regulation on the legal system or the paralegal profession. Although a very small percentage of respondents viewed the impact of regulation as negative, a large minority remained uncertain about the general benefits of regulation, opting for a neutral response or a qualified endorsement.

Asked if regulation would contribute to competent standards of paralegal services, 80% of survey respondents indicated they were very confident (21%) or somewhat confident (59%) that the regulatory system would ensure that they received competent services from paralegals in the future.

CHART 36: Do you believe the services paralegals provide are more competent and professional, or less competent and professional as a result of being regulated? (Q22b)

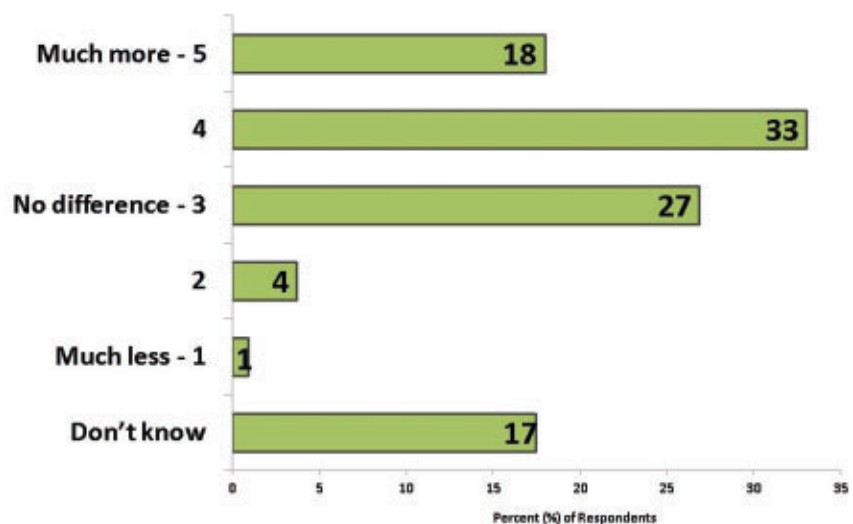
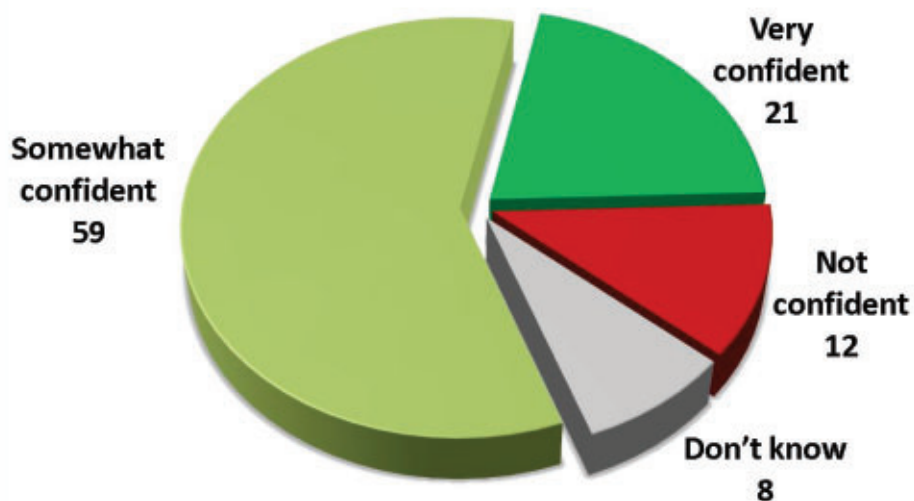
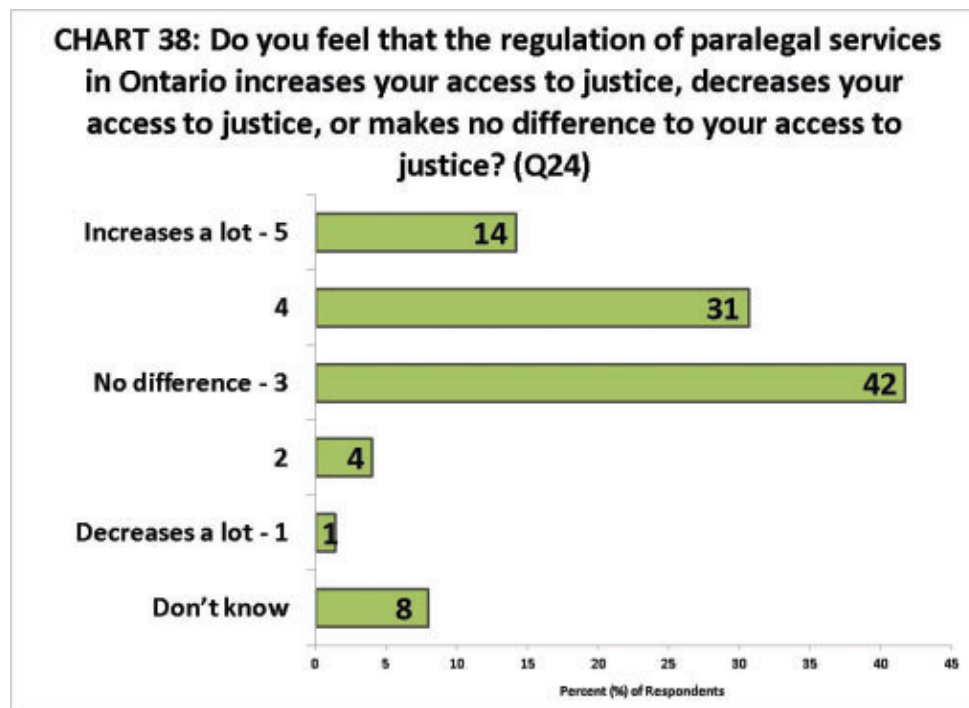


CHART 37: Are you very confident, somewhat confident, or not confident that the regulatory system will ensure that you receive competent service from paralegals in the future? (Q23)



As **Chart 38** shows, 45% of survey respondents feel that regulation of paralegal services increases access to justice a lot (14%) or somewhat (31%), whereas 42% indicated it would make no difference, and 8% don't know. Here again very few respondents identified a negative impact, leaving opinion divided between moderate positive responses and neutral options. In this instance, fully half of the survey respondents opted for a neutral response category (no difference, don't know).



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